

Land Resources and Parks Department Staff Report

County Conditional Use Permit Application # 2018-0076

Applicant

Franklin Lehman
6795 County Road A, No. 12
Lake Mills, WI 53551

Owner:

Sandra Sykes
2197 Kings Terrace
Woodbury, MN 55125-1627

Filing Date: February 26, 2018

Hearing Date: April 2, 2018

Committee Decision Date: April 16, 2018

Location:

PIN# 040-0914-3523-000; 040-0914-3522-000;

Property Location: Part of the SW ¼, NW ¼, Section 35, Town of Shields, the site address being N358 Barry Road.

Applicants Request

An application for a County Conditional Use Permit was made by the applicant in order they be allowed to create an approximate 3-acre single family nonfarm residential lot within the A-1 Prime Agricultural Zoning District. The 3-acre lot contains an existing residence and accessory buildings which are intended for residential use. The remaining approximate 79-acres will remain in agricultural use.

On April 2, 2018, the Committee laid over a decision on the conditional use permit application at the request of the Town of Shields Town Board in order to allow the Town Board additional time to review the application and to submit a recommendation to the Committee.

Town Recommendation: The Town of Shields has not provided a recommendation as of April 9, 2018.

STAFF ADVISORY:

This staff advisory is only advice to the Planning, Development and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.

The staff has reviewed the proposal for compliance with the criteria listed in Sections 2.3.6.F and 3.7.2.D of the Dodge County Land Use Code and with Chapter 91.46 of the Wisconsin State Statutes. The staff comments are listed in Exhibit A for the Committee review.

It is the staff's position that the project as proposed is in compliance with the applicable provisions of the Dodge County Land Use Code and the provisions of Chapter 91.46 of the Wisconsin State Statutes and the staff believes that the Committee can make the findings necessary under Section 2.3.6.F and 3.7.2.D of the code that are required to approve the Conditional Use Permit for this project. If approved with the following conditions, the staff believes that the project will not have an adverse effect on the adjacent land owners, the community or the environment, and the proposal will be consistent with the purpose and intent of the Code.

CONDITIONS:

1. The applicant shall obtain the required land division approvals for the proposed lot from the County and local municipalities if required, prior to the creation of these lots;
2. The proposed non-farm residential lot shall not exceed 3.9-acres in area unless the lot is successfully rezoned out of the A-1 Prime Agricultural Zoning District;
3. Only one single family residential unit may be located on the proposed non-farm residential lot unless this lot is successfully rezoned into a zoning district which allows additional residential units;
4. The acreage of the proposed non-farm residential lot shall count towards the total non-farm residential acreage that can be created from the base farm tract for this property;
5. A "Notice of Zoning Limitations" document shall be recorded with the Dodge County Register of Deeds Office for the following parcels which make up the "base farm tract" which notifies the potential buyers of these parcels that there may be limitations as to the number of new lots that can be created from this base farm tract:
 - 040-0914-3522-000; 040-0914-3523-000;
6. The owner and subsequent owners of this non-farm residential lot hereby agree to comply with Subsection 9.2, Right to Farm provisions of the Dodge County Land Use Code and that they will not cause unnecessary interference with adjoining farming operations producing agricultural products and using generally accepted agricultural practices, including access to active farming operations;
7. The decision of the Committee is valid for one year.

“EXHIBIT A”

Staff Review Comments

The staff has reviewed the proposal for compliance with the criteria listed in Section 2.3.6.F and 3.7.2 of the code. The staff comments are as follows:

Subsection 3.7 Is the proposed conditional use permit request in compliance with Chapter 91.46, Wisconsin State Statutes?

	<u>Complies</u>	<u>Potential Problem</u>	<u>N/A</u>
Proposed Use:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.7.2.D.1 Non-farm residential acreage ratio: <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none">• Acreage of Base Farm Tract: 81.91 acres;• Non-farm residential acreage: 3 acres;• Farm acreage remaining after project is completed: 78.91 acres;• The ratio of all “nonfarm residential acreage” to farm acreage: on the “base farm tract” shall not exceed 1 to 20 (0.05).<ul style="list-style-type: none">▪ Ratio of non-farm residential acreage to farm acreage: 3 to 78.91 or 0.04			
3.7.2.D.2 The total number of non-farm residential units on the base farm tract shall not exceed 4;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Existing non-farm residences on base farm tract:			
<ul style="list-style-type: none">• 0 - Number of existing non-farm residential units located on base farm tract;• 1 - Number of proposed non-farm residential units located on base farm tract;• 1 - Total number of non-farm residential units located on base farm tract;			
The total number of residential units of any kind on the base farm tract shall not exceed 5;			
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Existing residential units on base farm tract:			
<ul style="list-style-type: none">• 1 - Number of existing residential units located on base farm tract;• 0 - Number of proposed residential units located on base farm tract;• 1 - Total number of residential units located on base farm tract;			
3.7.2.D.3.a Location of the proposed lots:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will the proposed nonfarm residential lot convert cropland or “prime farmland” into non-farm use;			
<input type="checkbox"/> Yes; <input checked="" type="checkbox"/> No;			
3.7.2.D.3.b Location of the proposed lots:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will the location of the nonfarm residential lot significantly impair the current or future agricultural use of other “protected farmland”?			
<input type="checkbox"/> Yes; <input checked="" type="checkbox"/> No;			

2.3.6.F.2 Is the project compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

- It is the staff's position that the proposed residential use will be compatible with the adjacent uses;

2.3.6.F.3 Will the proposed use be significantly detrimental to the public health, safety, and welfare?

- It is the staff's position that the proposal will not have a significant detrimental impact on the adjacent properties or the community;

2.3.6.F.4 Will the project cause substantial diminution in value of other property in the neighborhood in which it is to be located;

- It is the staff's position that the proposal will not have an adverse impact on the value of other property in the area;

2.3.6.F.5 Are public safety, transportation and utility facilities and services available to serve the subject property while maintaining sufficient levels of service for existing development?

- It is the staff's position that there are adequate public facilities to serve the property;

2.3.6.F.6 Are there adequate assurances of continuing maintenance for the project?

- It is the staff's position that there are adequate assurances of continuing maintenance for the project.

2.3.6.F.7 Will any significant adverse impacts on the natural environment be mitigated to the maximum practical extent?

- It is the staff's position that the proposal will not have an adverse impact on the natural environment.

2.3.6.F.8 The proposed use will not be located in any hazard areas, including floodplains, floodways, etc., unless any potential danger is mitigated to the maximum extent possible, and to the satisfaction of the Wisconsin Department of Natural Resources;

- It is the staff's position that proposed use will not be located in any hazard areas.

2.3.6.F.1 Does the proposed project comply with all applicable provisions of this Code;

- It is the staff's position that the proposed project complies with the applicable provisions of the code;

Dodge County Planning, Development and Parks Committee Decision

County Conditional Use Permit Application # 2018-0076

Applicant

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Lake Mills, WI 53551

Owner:

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CONCLUSIONS OF LAW

Based on the facts presented in the application and at the public hearing the Committee concludes that:

According to Section 3.7.2.D of the Land Use Code and Wisconsin State Statute 91.46, new nonfarm single family residences or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy can be approved if all of the following apply:

3.7.2.D.1 Does the proposal meet the nonfarm residential acreage standards for the A-1 Prime Agricultural Zoning District?

(Yes / No)

3.7.2.D.2 Does the proposal meet the density standards for the A-1 Prime Agricultural Zoning District?

(Yes / No)

3.7.2.D.3.a Will the proposed nonfarm residential lot convert cropland or "prime farmland" into non-farm use;

(Yes / No)

If yes, are there reasonable alternative locations for the proposed lot that would convert less cropland or prime farmland into nonfarm residential use?

3.7.2.D.3.b Will the location of the nonfarm residential lot significantly impair the current or future agricultural use of other "protected farmland"?

(Yes / No)

If yes, are there any mitigation measures that can be implemented in order to minimize the impact of the nonfarm residential use on the adjacent agricultural use?

2.3.6.F General Approval Criteria for Conditional Use Permits

Conditional Use Permits shall be approved by the Committee if they find that all of the following criteria have been met:

2.3.6.F.2 Is the project compatible with adjacent uses in terms of scale, site design, operating characteristics? (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

(Yes / No)

If not, what measures can be taken to mitigate any potential conflicts?

2.3.6.F.3 Will the proposed use be significantly detrimental to the public health, safety, and welfare?

(Yes / No)

If yes, what measures can be taken to mitigate the potential detrimental impacts?

2.3.6.F.4 Will the project cause substantial decrease in value of other property in the neighborhood in which it is to be located;

(Yes / No)

If yes, what measures can be taken to mitigate the decrease in the value of the properties?

2.3.6.F.5 Are public safety, transportation and utility facilities and services available to serve the subject property while maintaining sufficient levels of service for existing development?

(Yes / No / Not Applicable)

If not, what can be done to ensure facilities and services will be available?

2.3.6.F.6 Are there adequate assurances of continuing maintenance for the project?

(Yes / No/ Not Applicable)

If no, what measures can be taken to ensure continued maintenance?

2.3.6.F.7 Will there be any significant adverse impacts on the natural environment that require mitigation?

(Yes / No)

If yes, what measures can be taken to mitigate the potential adverse impacts on the environment?

2.3.6.F.8 Is the project located in any hazard areas? (floodplains, floodways, steep slopes, etc)

(Yes / No)

If yes, are there any measures that need to be taken to mitigate any potential dangers?

2.3.6.F.1 Does the proposed project comply with all applicable provisions of this Code;

(Yes / No)

If not, what changes must be made to bring the project into compliance with the code?

Are any conditions for approval needed in this case to mitigate any potential adverse impacts on the adjacent properties, the environment or the community?

(Yes/No)

1. The applicant shall obtain the required land division approvals for the proposed lot from the County and local municipalities if required, prior to the creation of these lots;
2. The proposed non-farm residential lot shall not exceed 3.9-acres in area unless the lot is successfully rezoned out of the A-1 Prime Agricultural Zoning District;
3. Only one single family residential unit may be located on the proposed non-farm residential lot unless this lot is successfully rezoned into a zoning district which allows additional residential units;
4. The acreage of the proposed non-farm residential lot shall count towards the total non-farm residential acreage that can be created from the base farm tract for this property;
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 - 040-0914-3522-000; 040-0914-3523-000;
6. The owner and subsequent owners of this non-farm residential lot hereby agree to comply with Subsection 9.2, Right to Farm provisions of the Dodge County Land Use Code and that they will not cause unnecessary interference with adjoining farming operations producing agricultural products and using generally accepted agricultural practices, including access to active farming operations;
7. The decision of the Committee is valid for one year.

Others

Does the committee believe that the Conditional Use Permit Request meets the approval criteria in Sections 2.3.6.F and 3.7.2.D of the County Land Use Code and the provisions of Wisconsin State Statute 91.46?

(Yes / No)

Motion by _____ to (approve / deny) the conditional use permit request based upon the previously mentioned findings and conditions.

Motion second _____

Vote

Allen Behl	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Janice Bobholz	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
William Muche	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Joseph Marsik	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Tom Schaefer - Chairman	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present

Motion (Carried / Denied)

ORDER AND DETERMINATION

On the basis of the above findings of fact, conclusions of law and the record in this matter the committee

- Granted preliminary approval of the conditional use permit subject to the conditions listed above and the Land Use Administrator is directed to issue a conditional use permit incorporating the decision of this Committee.
- Granted the conditional use permit request as proposed and the Land Use Administrator is directed to issue a conditional use permit incorporating the decision of this Committee.
- Denied the conditional use permit request as proposed. The committee finds that the proposal does not meet the following approval criteria of the code:

Expiration of Approval. Any order issued by the Committee requiring a Zoning official to issue a conditional use permit shall become void after one year unless the applicant or appellant shall have met the conditions of approval for such permit and a conditional use permit has been issued by the Zoning official within such time, provided, that the time may be extended when so specified by the Committee.

Revocation. This order may be revoked by the Committee in accord with Section 11.4.4 of the Dodge County Land Use Code after notice and opportunity to be heard for violation of any of the conditions imposed.

Appeals. This decision may be appealed by any person or their agent aggrieved by this decision or by any officer, department, board or bureau of the County, or by any affected town board. Such appeals shall be filed with the Dodge County Land Resources and Parks Department or the review and decision making body from whom the appeal is taken within 30 days after the date of written notice of the decision or order of the review and decision making body. The County assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

If a conditional use permit is denied, the applicant may appeal the decision to the circuit court under the procedures contained in s. 59.694(10) Wis. Stats.

Dodge County Planning, Development and Parks Committee

Signed _____ Attest _____
Chairperson Secretary

Dated: _____ Filed: _____

Sandra Sykes
Town of Shields, Sec. 35 333-004

The data used to create this map is a compilation of records, information, and data from various city, county and state offices, and other sources. This map is only advisory, does not replace a survey, and may not be used for any legal purpose. Dodge County assumes no liability for any use or misuse of this information.



A north arrow pointing upwards, with 'N' at the top, 'S' at the bottom, 'E' on the right, and 'W' on the left. Below the arrow is a scale bar with markings at 0, 70, 140, and 280. Below the scale bar, the text reads: "1" = 400', "2012 Aerial Photo", "Dodge County", and "Land Resources & Parks".

Land Resources and Parks Department
Staff Report
April 16, 2018

Petition to amend the Floodplain Zoning Ordinance of Dodge County

Applicant / Petitioner:

Dodge County Land Resources and Parks Committee

Hearing Date: April 16, 2018

Subject - Proposal

A petition has been submitted by the Dodge County Land Resources and Parks Committee to amend Appendix 1 of the Floodplain Zoning Ordinance, Dodge County Wisconsin by adding the Beaver Dam River Dam Failure Inundation Shadow analysis information for the Upper Beaver Dam River Dam located in Section 4, City of Beaver Dam as shown in Exhibit A and to amend Section 1.5 (1) of the Floodplain Zoning Ordinance as shown in Exhibit B.

A dam failure analysis (DFA) is required for all large dams under Wisconsin Administrative Code, Chapter NR 333. Dam Failure analysis studies are required to be performed by an engineer registered in the State of Wisconsin and are required to be approved by the DNR.

The analysis is used for the following purposes:

- To identify the inundation area or the extent of the dam failure floodplain (hydraulic shadow) for the dam if it were to fail;
- To determine the dam's hazard rating based on the affected development downstream;
- To determine the design spillway capacity requirements for the structure; and
- To utilize the information to determine downstream land use controls that must be implemented to protect the public and to develop and implement a detailed Emergency Action Plan for the dam.

The intent of the petition is to incorporate the 2017 revised dam failure analysis, the Dam Failure Map Panels 1 through 7, the Dam Failure Profile Panels 1 through 4 and the Dam Failure Floodway Data Table for those portions of the floodplain that cover lands located outside of the City limits of the City of Beaver Dam for the Upper Beaver Dam River Dam located in Section 4, City of Beaver Dam. The analysis was prepared by MSA Professional Services dated April 6, 2017 and was approved by the Wisconsin Department of Natural Resources on April 10, 2017.

If the dam failure floodplain maps are approved, the new floodplain boundary lines shown on the Dam Failure Maps will be utilized by the County staff as the floodplain boundary lines for the areas located downstream of the dam as shown on the maps and any development which occurs within these boundaries will be required to comply with the Floodplain Zoning Ordinance regulations.

The proposed amendment will also incorporate floodplain permit requirement exemptions approved by the legislature on November 30, 2017, under 2017 Wisconsin Act 115, for lands that are located adjacent to farm drainage ditches as specified in s. 87.30(1m)(am) Wis. Stats. Under current law, a person is prohibited from placing or maintaining any structure, building, fill, or development within any floodplain in violation of a floodplain zoning ordinance adopted the county. Under the newly enacted law, a floodplain zoning ordinance will not apply to lands adjacent to farm drainage ditches if the lands are not within the floodplain of a natural navigable stream or river, those parts of the drainage ditches adjacent to these lands were non-navigable streams before ditching, and the lands are maintained in nonstructural agricultural use. In addition, in accord with the newly enacted law, a floodplain ordinance will not apply to lands adjacent to farm drainage ditches if the farm drainage ditch is

subject to the jurisdiction of a drainage district, the disposal of material in a floodplain is within the drainage district corridor, and the land adjacent to the corridor are maintained in nonstructural agricultural use. These newly adopted exemptions will be incorporated into the Dodge County Floodplain Zoning Ordinance with this amendment. The proposed changes to Section 1.5 (1) (a) of the ordinance are necessary in order to bring the Floodplain Ordinance into compliance with the recently amended Wisconsin State Statutes under 2017 Wis. Act 115.

Floodplain Zoning Ordinance Provisions:

- 1) Subsection 8.2 of the Dodge County Floodplain Zoning Ordinance states that a petition for the amendment of the Ordinance may be made upon petition of any interested party according to the provisions of s. 59.69, Wisconsin State Statutes.
- 2) Subsection 8.2(1) though 8.2(3) of the Ordinance detail the procedural matters for the petition. The committee must hold a public hearing and report a recommendation to the County Board which shall approve or disapprove the proposed amendment.
- 3) In accord with Subsection 8.2(2), no amendments shall become effective until reviewed and approved by the Department of Natural Resources.

STAFF ADVISORY:

This staff advisory is only advice to the Land Resources and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.

It is the staff's position that the proposed amendments are consistent with the Dodge County Comprehensive Plan and the stated purposes of the Dodge County Floodplain Zoning Ordinance. It is also the staff's position that the proposed changes to the Floodplain Zoning Ordinance are necessary in order to protect the health, safety and general welfare of the public and are necessary in order to bring the County's Floodplain Zoning regulations into compliance with the State and Federal Floodplain regulations. The staff therefore recommends the Committee report favorably on the proposed petition.

PETITION TO AMEND THE FLOODPLAIN ZONING ORDINANCE OF DODGE COUNTY, WISCONSIN

We, the Dodge County Planning, Development and Parks Committee, petition to amend Appendix 1 of the Floodplain Zoning Ordinance, Dodge County Wisconsin by adding the Beaver Dam River Dam Failure Inundation Shadow analysis information for the Upper Beaver Dam River Dam located in Section 4, City of Beaver Dam as shown in Exhibit A and petition to amend Section 1.5 (1) of the Ordinance as shown in Exhibit B.

The intent of the petition is to incorporate the 2017 revised dam failure analysis, the Dam Failure Map Panels 1 through 7, the Dam Failure Profile Panels 1 through 4 and the Dam Failure Floodway Data Table for those portions of the floodplain that cover lands located outside of the City limits of the City of Beaver Dam for the Upper Beaver Dam River Dam located in Section 4, City of Beaver Dam. The analysis was prepared by MSA Professional Services dated April 6, 2017 and approved by the Wisconsin Department of Natural Resources on April 10, 2017 and to incorporate exemptions for lands adjacent to farm drainage ditches as specified in s. 87.30(1m)(am) Wis. Stats. The proposed changes to Section 1.5 (1) (a) of the ordinance is necessary in order to comply with recently amended Wisconsin State Statutes (2017 Wis. Act 115).

Respectfully submitted this _____ day of _____, 2018.

Tom Schaefer

Tom Schaefer

Allen Behl

Allen Behl

Janice K. Bobholz

Janice Bobholz

Joseph Marsik

Joseph Marsik

William Mucho

William Mucho

Planning, Development and Parks Committee

Exhibit A

Proposed changes:

Additions in text are indicated by underline:

Floodplain Study Appendix

Dodge County Flood Storage District Maps

Panels 1 through 13

Dated May 19, 2014

Prepared by the Wisconsin Department of Natural Resources. Approved by the Wisconsin Department of Natural Resources.

Dam failure analysis and hydraulic shadow maps for the Danville Dam

Hydrologic and hydraulic analysis and the dam failure analysis prepared by the Wisconsin Department of Natural Resources dated October 2015.

Supplemental Dam Failure Analysis and hydraulic shadow map for the Village of Hustisford Dam

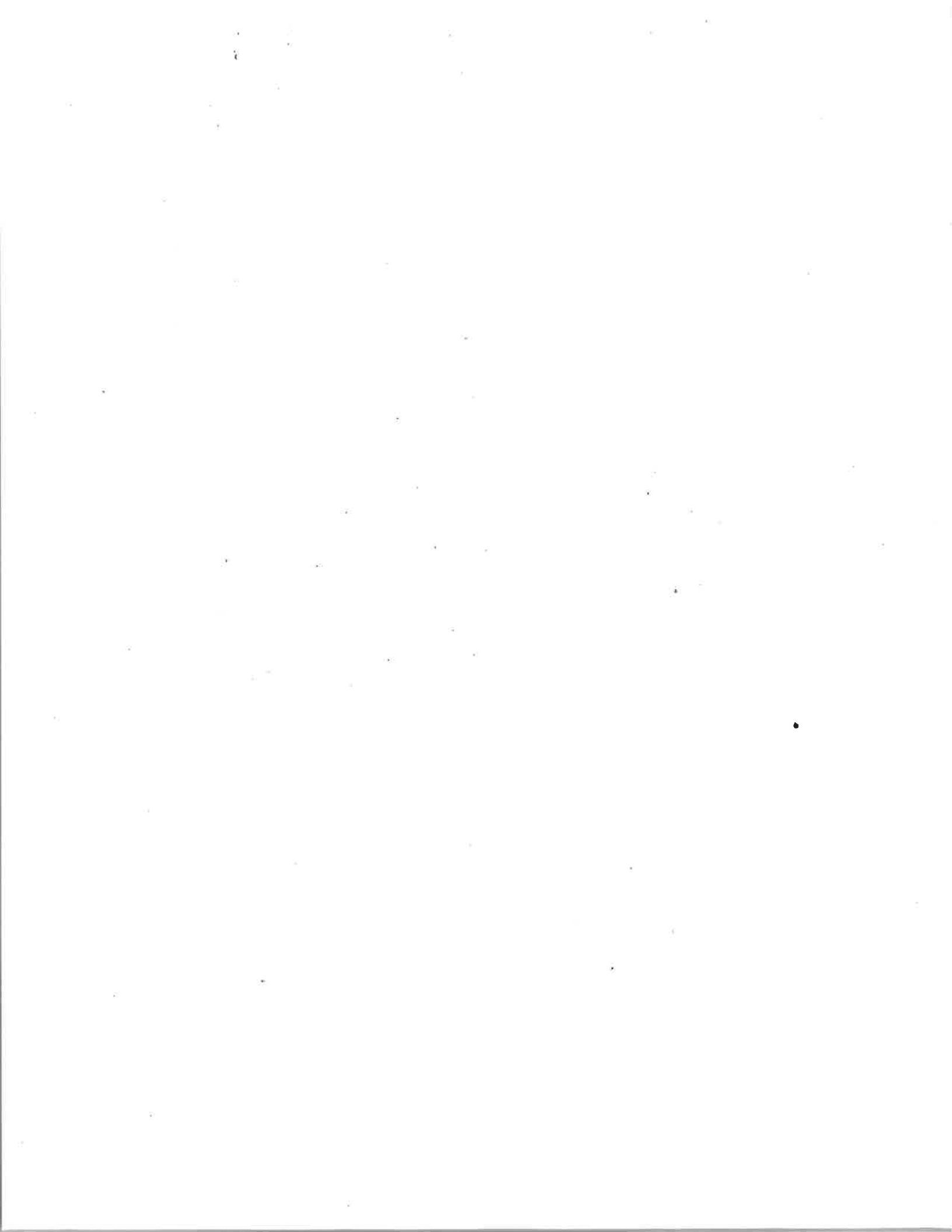
Supplemental Dam Failure Analysis and hydraulic dam failure profile for the Village of Hustisford Dam, dated July 6, 2015 prepared by Stantec Consulting Services Inc. and approved by the Wisconsin Department of Natural Resources.

Beaver Dam River Dam Failure Inundation Shadow

Those portions of the following documents that cover lands located outside of the City limits of the City of Beaver Dam:

- Dam Failure Map Panels 1 through 7;
- Dam Failure Profile Panels 1 through 4;
- Dam Failure Floodway Data Table;

All bearing the Professional Engineer's Seal of Uriah P. Monday, PE, of MSA Professional Services, dated April 6, 2017 and approved by the Wisconsin Department of Natural Resources on April 10, 2017.



Beaver Dam River Dam Failure Scenario

City of Beaver Dam
Dodge County, Wisconsin

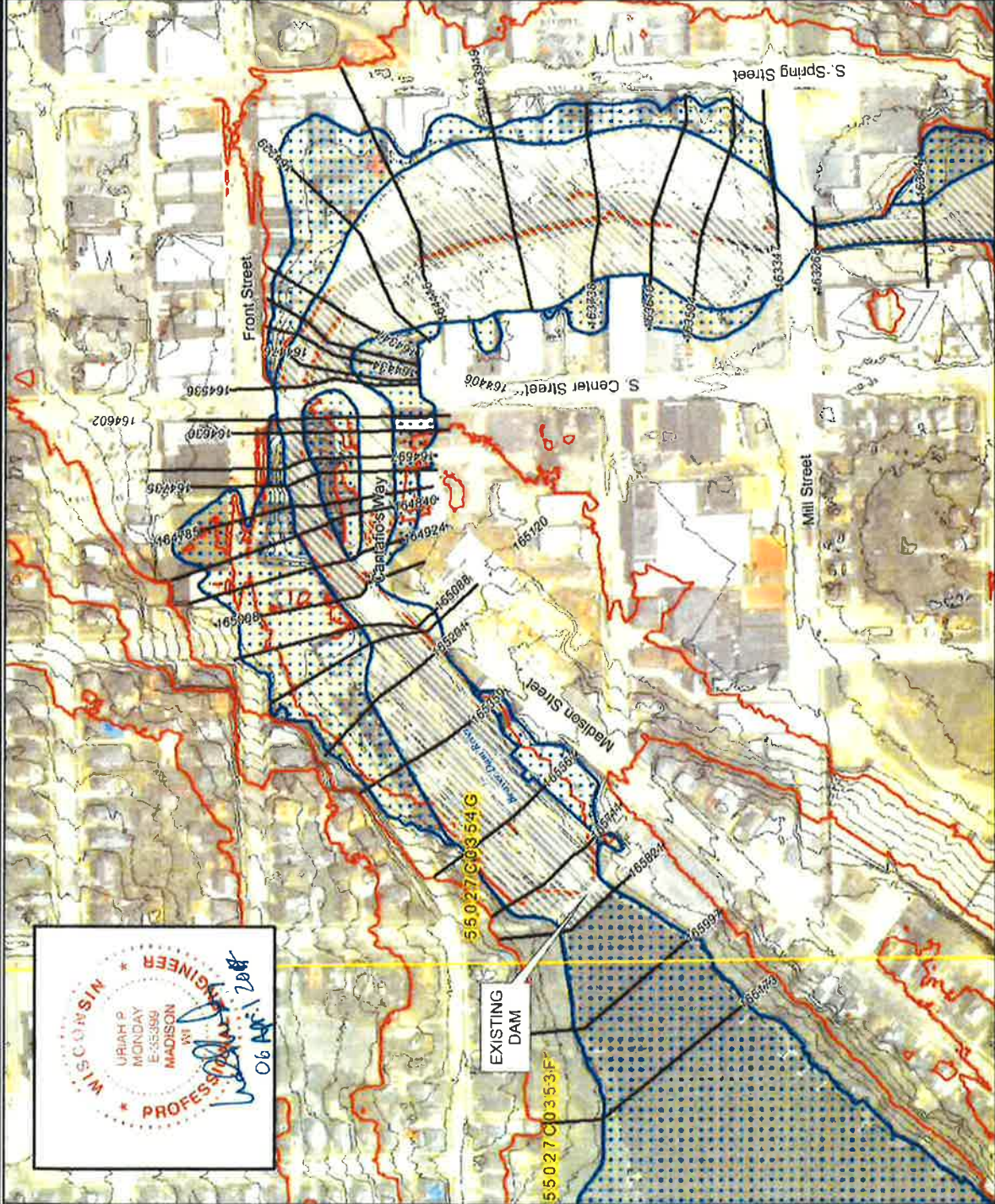
Panel 1 of 5

Legend

- FEMA FIRM Panel Boundary
- Political Boundary
- DFA Model Cross Section
- DFA Flood Hazard Area
 - Dam Fails - Flood Fringe
 - Dam Fails - Floodway



DATE: 06/11/2014
PROJECT: BEAVER DAM RIVER DAM FAILURE SCENARIO
DRAWN BY: J. H. HARRIS
CHECKED BY: J. H. HARRIS



Beaver Dam River Dam Failure Scenario

City of Beaver Dam
Dodge County, Wisconsin

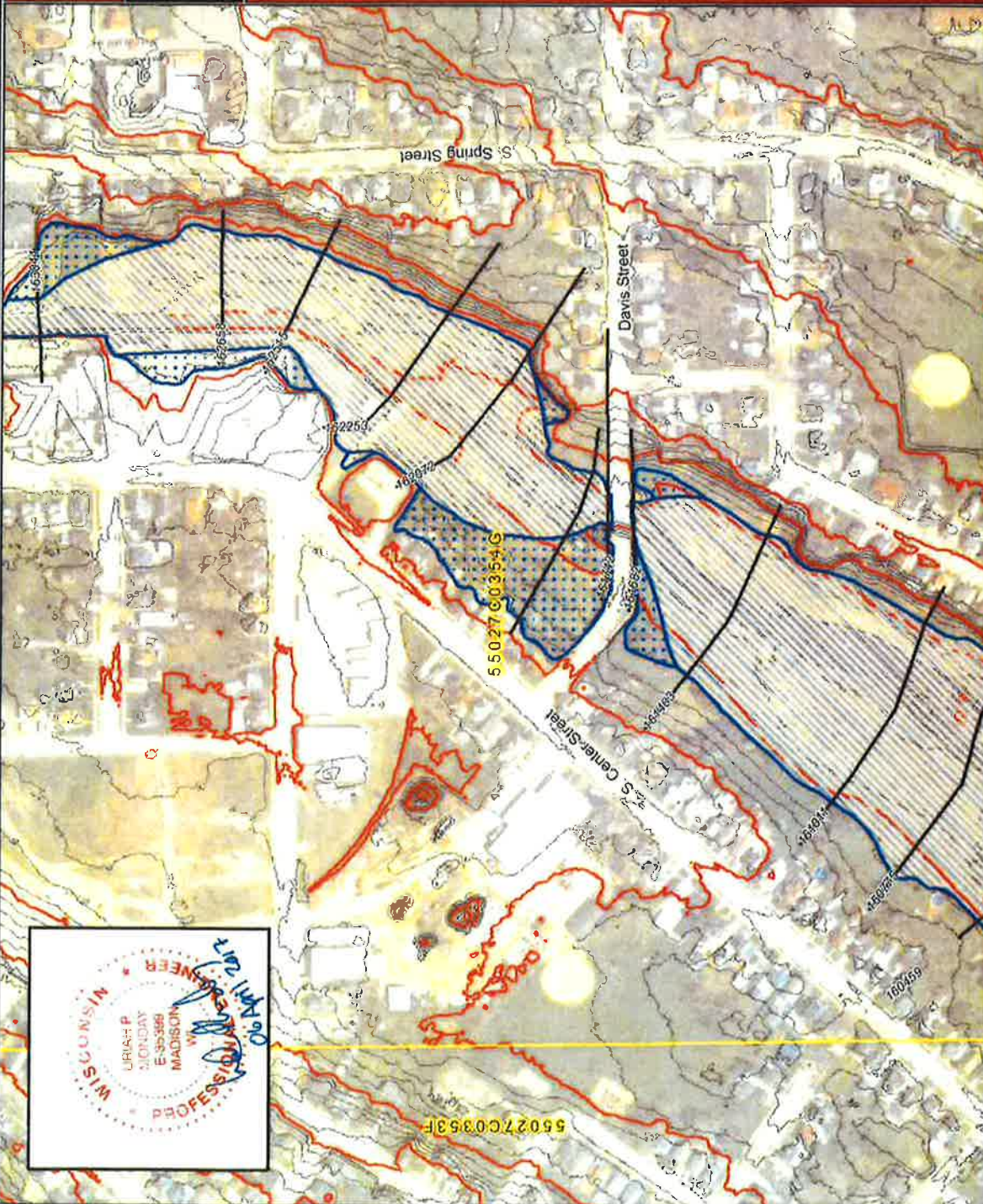
Panel 2 of 7

Legend

- FEMA FIRI Panel Boundary
- Political Boundary
- DFA Model Cross Section
- DFA Flood Hazard Area
- Dam Failure - Flood Fringe
- Dam Failure - Floodway



Sources:
- Base data provided by Dodge County
- DFA developed by D&B
- Update: PA, Date: 12/23/11, File #: 0014142625



Beaver Dam River Dam Failure Scenario

City of Beaver Dam
Dodge County, Wisconsin

Panel 4 of 7

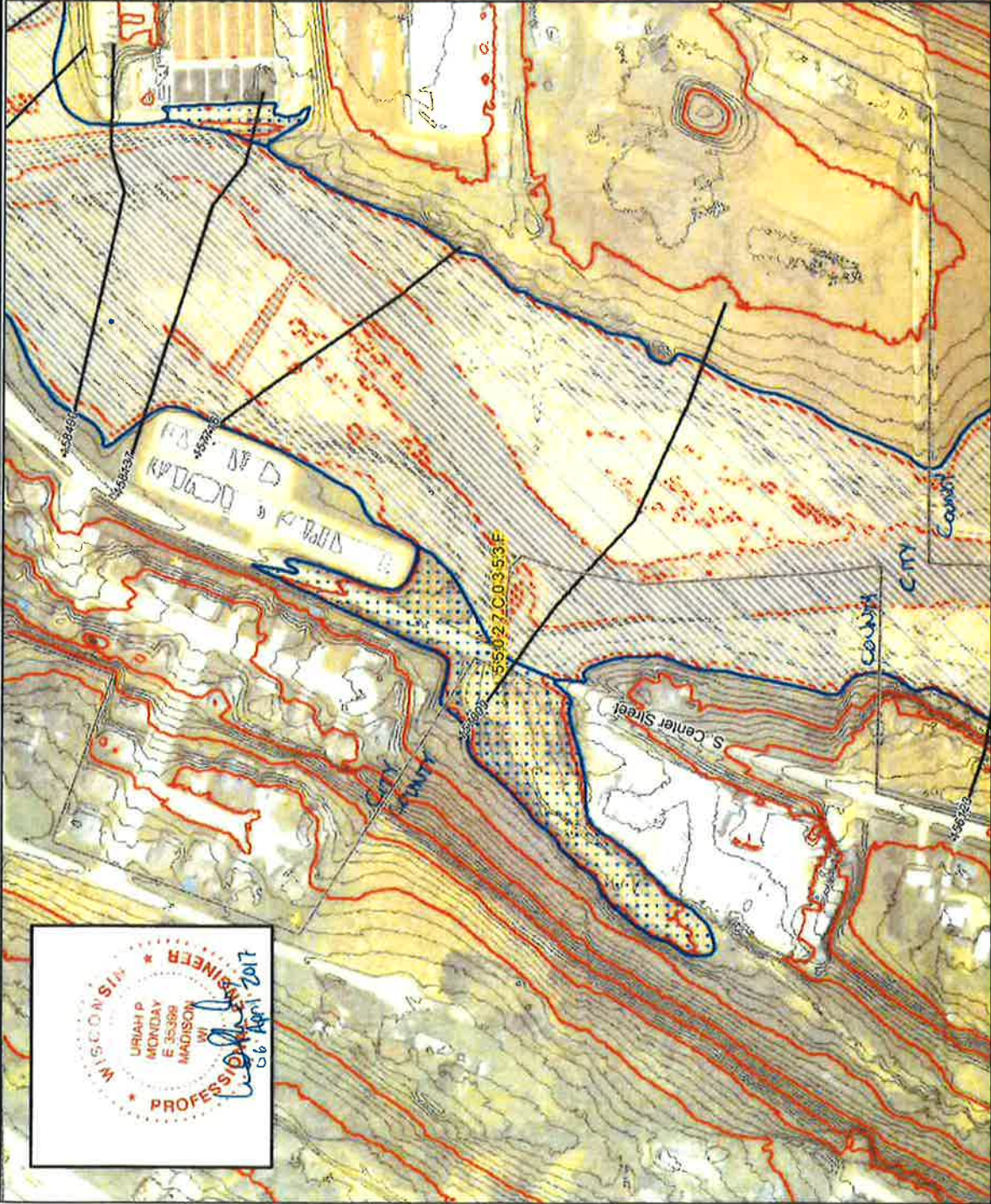
Legend

- FEMA FIRM Panel Boundary
- Political Boundary
- DFA Model Cross Section
- DFA Flood Hazard Area
- Dam Fails - Flood Fringe
- Dam Fails - Floodway



Sources:
Base data provided by Dodge County
MVA developed from air photo

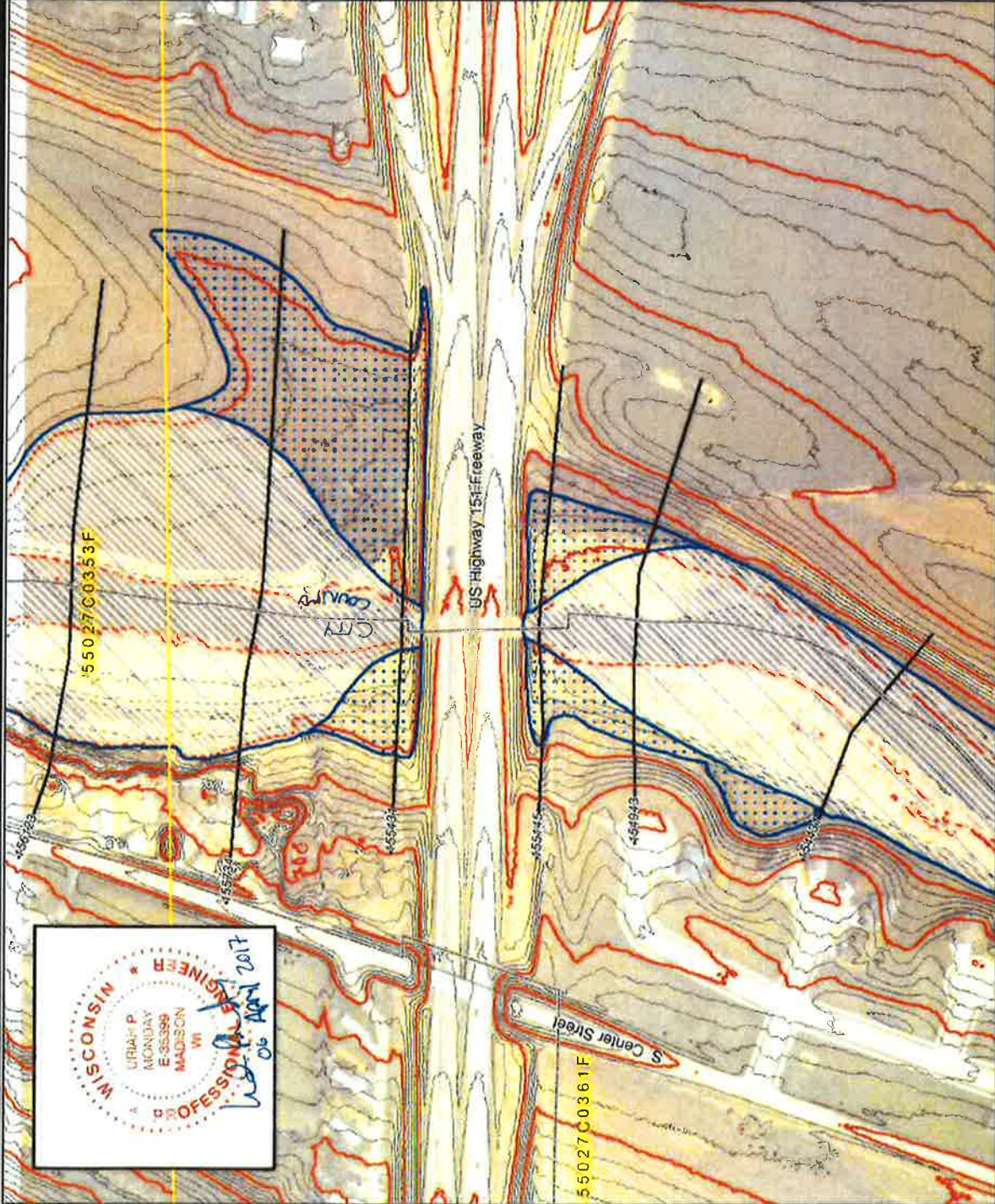
Dated: April 28, 2017 File # 100160665



Beaver Dam River Dam Failure Scenario

City of Beaver Dam
Dodge County, Wisconsin

Panel 5 of 7



Legend

- FEMA FIRM Panel Boundary
- Political Boundary
- DFA Model Cross Section
- DFA Flood Hazard Area
- Dam Fails - Flood Fringe
- Dam Fails - Floodway

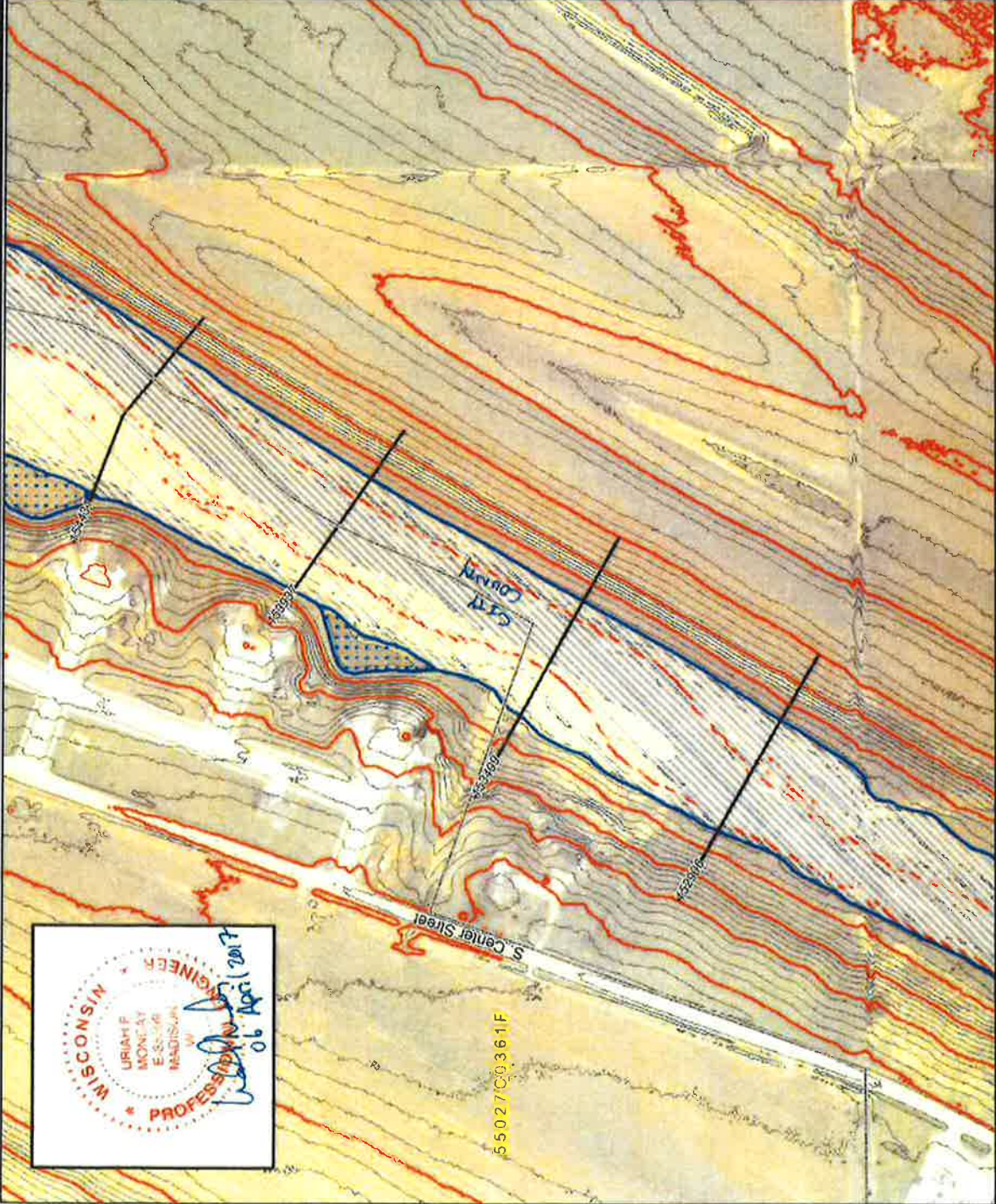


Source:
Base data provided by Dodge County
MVA (revision 08/01/01)
Date: 2/10/20 12:28 PM 14:00 0011006-05

Beaver Dam River Dam Failure Scenario

City of Beaver Dam
Dodge County, Wisconsin

Panel 6 of 7



Legend

- FEMA FIRM Panel Boundary
- Political Boundary
- DFA Model Cross Section
- DFA Flood Hazard Area
- Dam Falls - Flood Fringe
- Dam Falls - Floodway

Sources:
Base data provided by Dodge County
- MSA developed from AFD
Drawn: JPM Date: 12-8-18 Page: 01 0216035-06

Beaver Dam River Dam Failure Scenario

City of Beaver Dam
Dodge County, Wisconsin

Panel 7 of 7

Legend

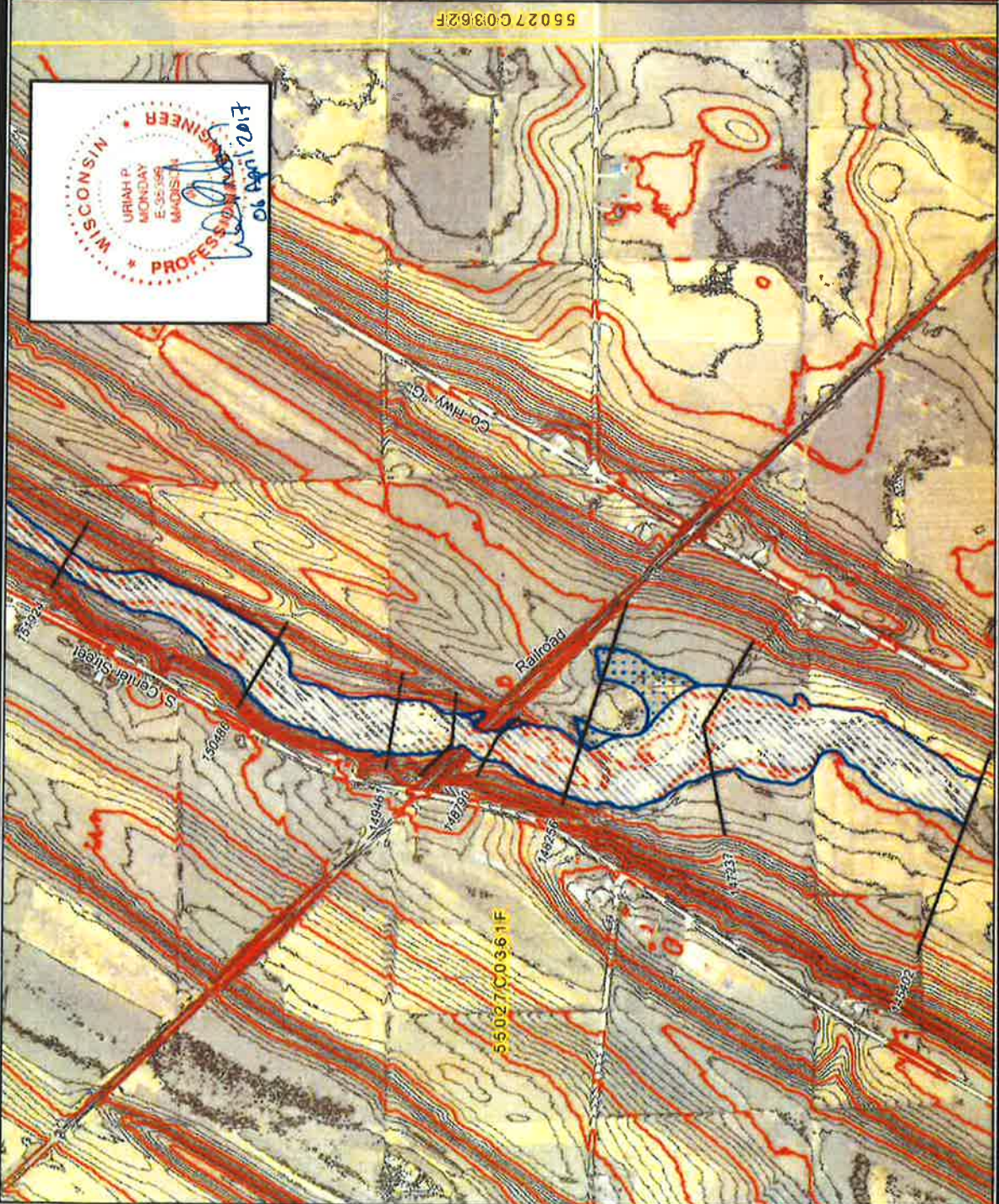
- FEMA FIRM Panel Boundary
- Political Boundary
- Hydraulic Model Cross Section
- DFA Flood Hazard Area
- Dam Fails - Flood Fringe
- Dam Fails - Floodway



Scale: 1" = 200'

NOTE: SOME DIFFERS FROM PANELS 1-6.

Project: City of Beaver Dam, Wis. 02/16/2015

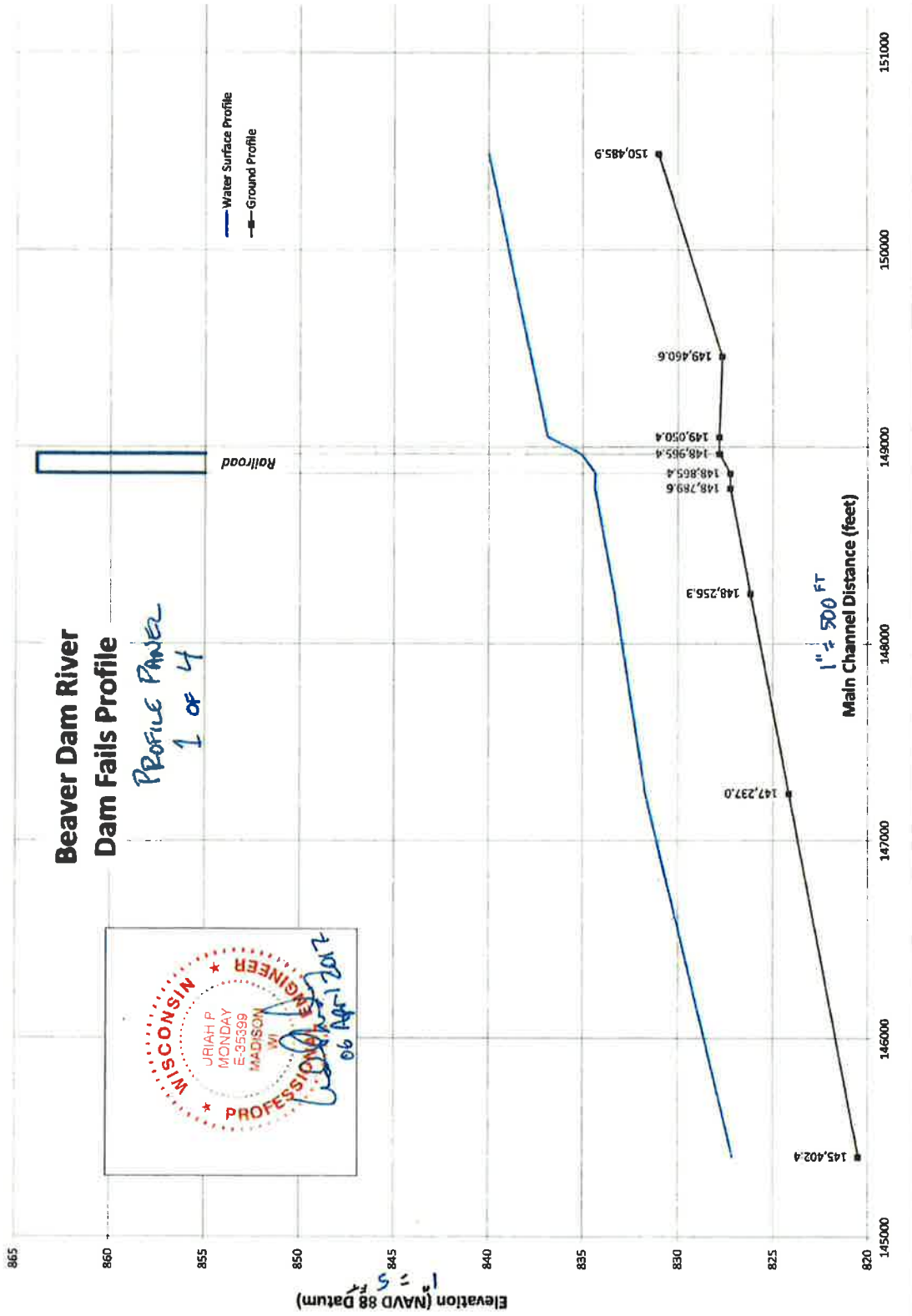


55027C0362F

55027C0361F

Beaver Dam River Dam Fails Profile

Profile Number
1 of 4



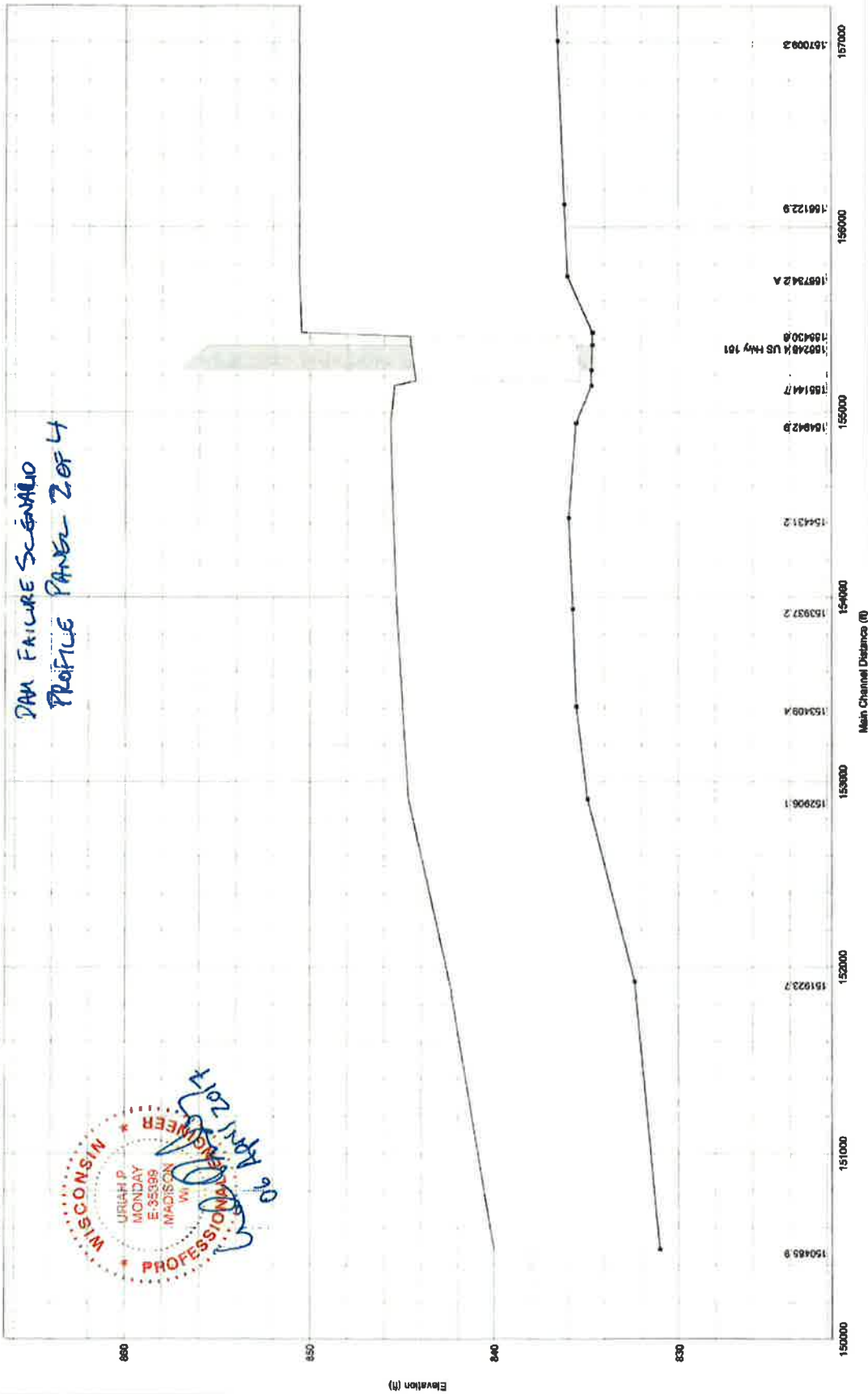
Beaver Dam Riv 2016 Dam Failure Analysis

Plan: Dam Failure

Geom: BO River with Dam

Flow: Beaver Dam Rear One

Legend
WS Max WS
Ground



DAM FAILURE SCENARIO
PROFILE PANEL 2 OF 4

06 APR 2017
URIAH P. MONDAY
E 36398
MADISON, WI
PROFESSIONAL ENGINEER
WISCONSIN

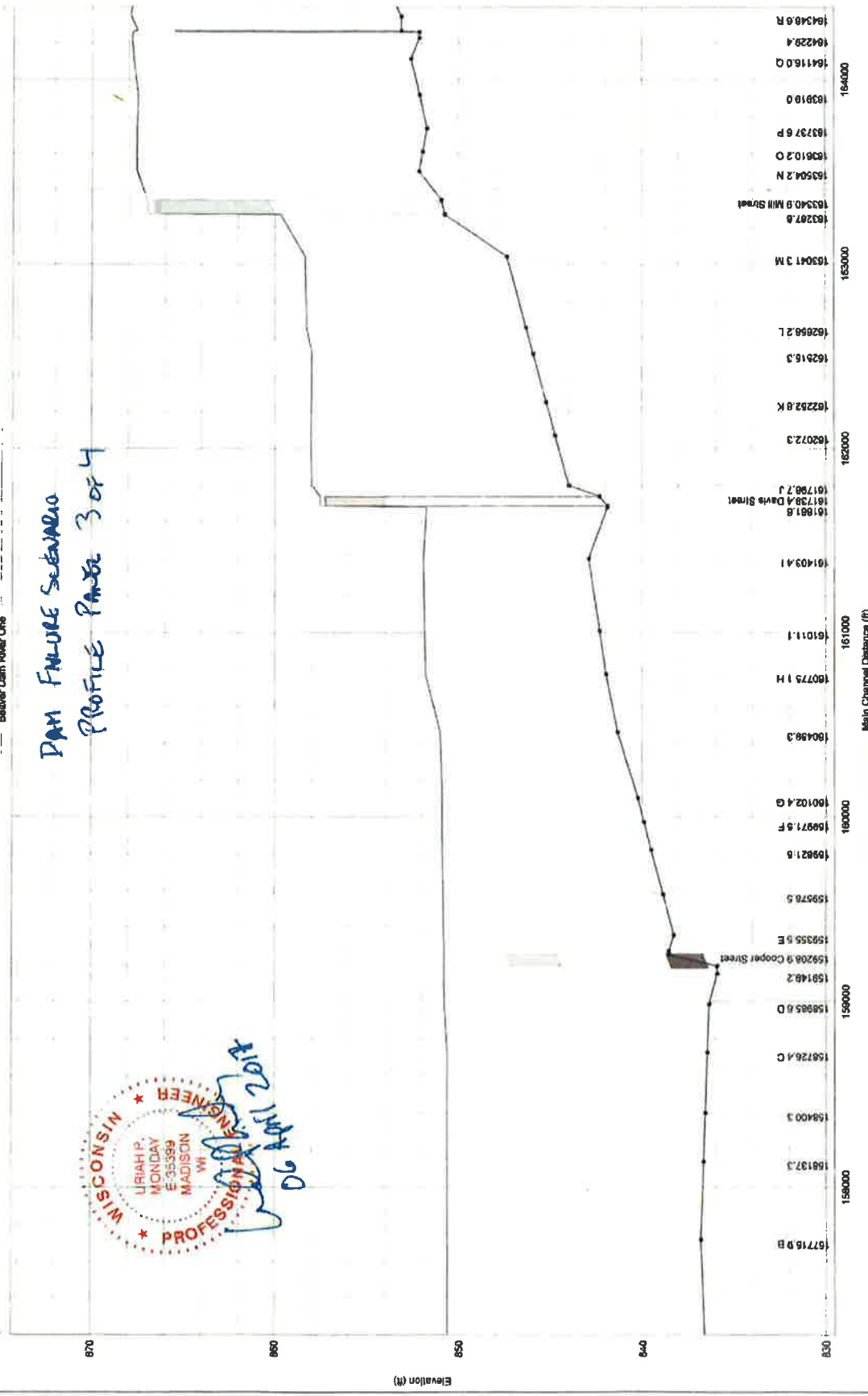
1 in Horiz. = 500 ft 1 in Vert. = 5 ft

Beaver Dam Riv 2016 Dam Failure Analysis Plan: Dam Failure
 Geom: BD River with Dam Flow: Beaver Dam River One

Legend
 WS Max WS
 Ground

DAM FAILURE SCENARIO
 PROFILE PAGE 3 OF 4

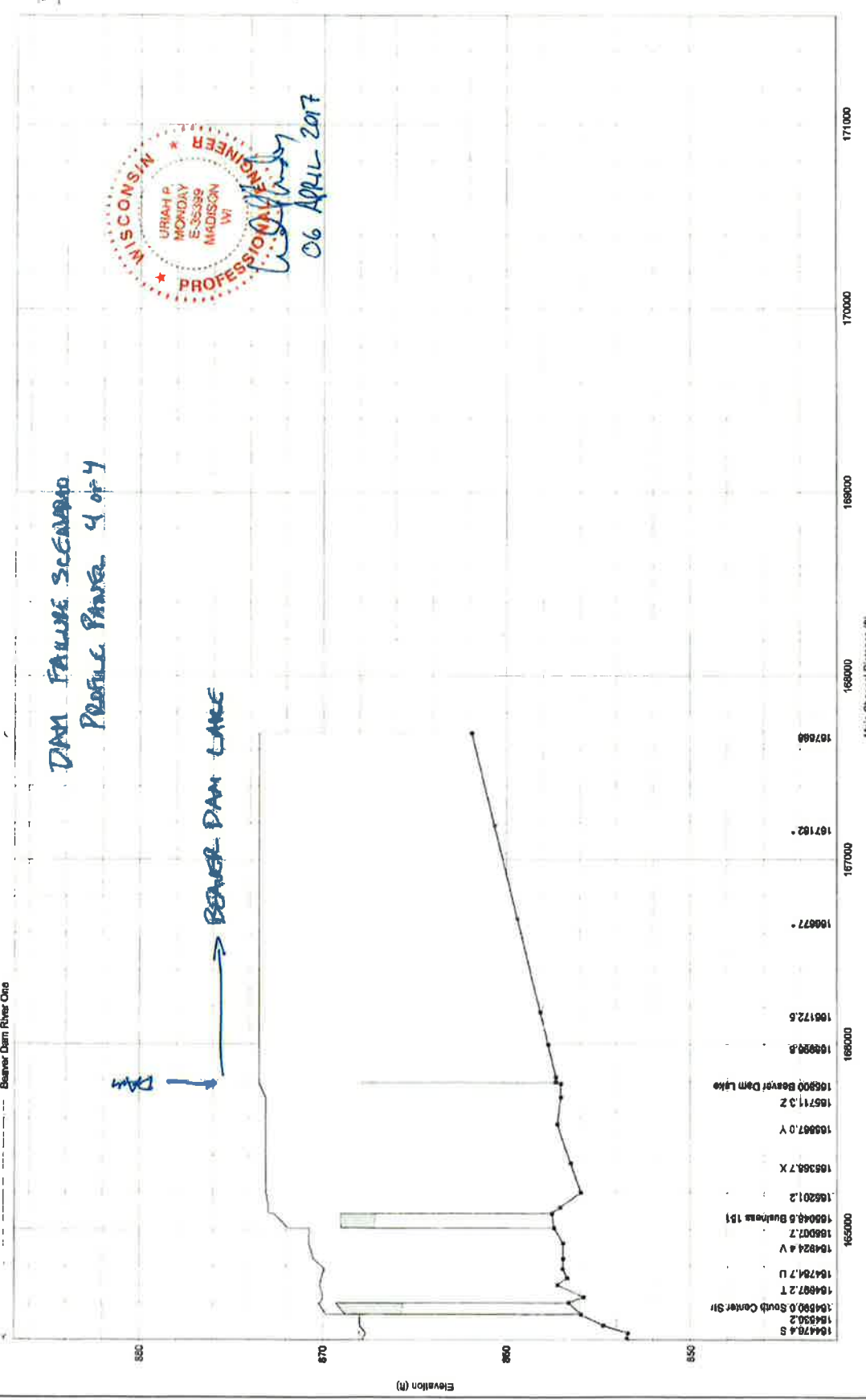
WISCONSIN PROFESSIONAL ENGINEER
 URIAH P. MONDAY
 E-35389
 MADISON WI
 D6 APR 12 2016



1 in Horiz. = 500 R. 1 in Vert. = 5 F.

Beaver Dam Riv 2016 Dam Failure Analysis Plan: Dam Failure
 Geom: 8D River with Dam Flow

Beaver Dam River Ohio



DAM FAILURE SCENARIO
 Profile Page 4 of 4

BEAVER DAM LAKE

Dam



06 APRIL 2017

Main Channel Distance (ft)

1 in Horiz. = 500 ft 1 in Vert. = 5 ft

FLOODING SOURCE	FLOODWAY DATA			STAGE-FLOW DATA	
CROSS SECTION	WIDTH (FEET)	SECTION AREA (SQUARE FEET)	MEAN VELOCITY (FEET PER SECOND)	MAXIMUM FLOW RATE (CUBIC FEET PER SECOND)	MAXIMUM WATER SURFACE ELEVATION (FEET NAVD 88)
BEAVER DAM RIVER - DAM FAILURE					
187888	1,340	9,164	0.2	1475	873.48
186173	398	2,517	0.8	1475	873.48
185897	303	2,420	0.6	1475	873.48
185821	132	1,307	1.1	1475	873.47
Beaver Dam Lake Dam					
165711	242	1,871	2.6	4801	873.12
165587	210	1,927	2.5	4895	873.12
185359	205	2,258	2.2	4889	873.13
185201	198	2,117	2.3	4885	873.10
165120	152	1,372	3.0	4883	872.97
185088	181	1,396	3.5	4882	872.97
Madison Street					
165008	89	820	5.8	4773	870.73
184824	168	900	5.3	4773	870.75
184840	153	781	6.1	4773	870.52
184785	140	586	8.4	4773	869.91
184735	151	682	7.2	4773	870.09
184697	168	738	6.5	4773	870.18
184630	142	700	6.8	4772	870.00
184602	135	776	8.2	4772	870.11
South Center Street					
184538	162	938	5.1	4771	867.99
184478	170	988	4.9	4771	867.98
184434	122	739	8.5	4771	867.86
184406	136	858	5.6	4771	867.82
184347	165	871	4.9	4771	867.91
Pedestrian Bridge					
184229	252	1,507	3.2	4771	867.84
184116	232	1,357	3.5	4771	867.76
183919	345	1,148	4.2	4771	867.50
183738	311	1,338	3.8	4771	867.54
183610	311	1,593	3.0	4771	867.56
183504	320	1,544	3.1	4771	867.53
183347	188	711	5.6	3885	867.00
Mill Street					
183288	50	337	14.1	4782	858.70
183041	77	422	11.3	4748	858.35
182858	231	1,166	4.1	4731	858.27
182515	211	980	4.9	4730	857.97
182253	328	1,749	2.7	4727	858.01
182072	383	2,666	1.8	4725	858.04
181789	150	1,414	3.3	4721	857.89
181742	82	741	8.4	4720	857.54
Davis Street					
181682	82	381	11.8	4429	851.72
181403	333	1,381	3.2	4414	851.90
181011	422	2,197	2.0	4412	851.83
180776	505	2,271	1.9	4412	851.79
180459	385	870	5.1	4397	850.89
180102	532	1,959	2.2	4397	850.87
189872	885	2,822	1.7	4396	850.89
189822	882	2,899	1.5	4397	850.88
189579	586	2,837	1.7	4397	850.84
189358	542	2,801	1.7	4396	850.80
189271	727	2,564	1.7	4397	850.78
Cooper Street					
159148	772	8,042	1.4	4396	850.79
158886	738	2,821	1.6	4388	850.77
168726	428	1,630	2.9	4385	850.61
188400	590	4,259	1.0	4388	850.83
158137	616	5,231	0.8	4385	850.62
167716	832	5,894	0.8	4385	850.61
157008	740	8,839	0.6	4388	850.60
158123	684	4,823	1.0	4385	850.57
158734	684	4,987	0.9	4388	850.58
155431	131	1,628	2.7	4385	850.46
US Hwy 151					
155145	87	733	6.0	4385	845.42
154943	343	2,378	1.8	4385	845.65
154431	343	1,856	2.4	4385	845.50
153937	287	1,554	2.8	4385	845.30
153408	287	1,316	3.3	4385	845.00
152908	258	1,347	3.3	4385	844.87
151924	128	648	8.8	4385	842.45
150486	371	1,385	3.2	4385	840.00
149481	329	1,842	2.7	4385	837.78
149060	259	1,155	3.8	4385	836.80
Railroad Bridge					
148780	240	922	4.8	4385	834.38
148256	328	1,308	3.4	4385	833.36
147237	588	1,881	2.8	4385	831.74
145402	287	934	4.7	4385	827.18

DODGE COUNTY, WI AND UNINCORPORATED AREAS	FLOODWAY DATA BEAVER DAM RIVER - DAM FAILURE
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NOTE: ACCOMPANIES 4 PROFILE PANELS AND 7 MAP PANELS.

WISCONSIN
URIAN P.
MONDAY
E-35389
MADISON
WI
PROFESSIONAL ENGINEER
06 April 2017

Exhibit B

Proposed changes:

Additions in text are indicated by underline; deletions by ~~single strikethrough~~.

1. Create Section 1.5 (1) (a) as follows:

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all lands within the boundaries of Dodge County, lying outside the limits of incorporated cities and villages that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by the DNR. **Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(a) EXEMPTION (2017 Wisconsin Act 115 – 87.30 (1m) (ag) (intro.)

Notwithstanding any other provision of law or administrative rule promulgated thereunder, the Floodplain Zoning Ordinance does not apply to lands adjacent to farm drainage ditches if all of the following apply:

1. Such lands are not within the floodplain of a natural navigable stream or river;
2. Those parts of the drainage ditches adjacent to these lands were non-navigable streams before ditching.

(b) EXEMPTION (2017 Wisconsin Act 115 – 87.30(1m) (am) Wis. Stats.)

Notwithstanding any other provision of law or administrative rule promulgated thereunder, the provisions of the Floodplain Zoning Ordinance do not apply to lands adjacent to farm drainage ditches if all of the following apply, except to the extent necessary for the municipality to which the floodplain zoning ordinance applies to maintain eligibility for participation in the National Flood Insurance Program:

1. The farm drainage ditch is subject to the jurisdiction of a drainage district under Ch. 88 Wis. Stats.
2. The disposal of material in a floodplain is within the drainage district corridor under 88.74 Wis. Stats.
3. The lands adjacent to the corridor are maintained in nonstructural agricultural use or other nonstructural use.

Land Resources and Parks Department Staff Report

Code Amendment – Land Use Code

Applicant / Petitioner:

Dodge County Land Resources and Parks Committee

Filing Date: February 19, 2018

Hearing Date: April 16, 2018

Subject - Proposal

A petition has been submitted by the Dodge County Land Resources and Parks Committee to amend certain provisions of the Land Use Code, Dodge County, Wisconsin. The petition includes amendments related to limiting the authority of the County to regulate development on substandard lots and requiring the merging of lots; requiring the issuance of a conditional use permit under certain circumstances; clarifying the standards for granting certain variances, clarifying the provisions for when a land use permit is not required, and clarifying the requirements related to the repair, rebuilding, and maintenance of certain nonconforming structures. The petition also includes changes to the Certified Survey Map and Plat submission provisions of the Code and a series of miscellaneous housekeeping amendments to the Code that are necessary in order to clarify certain definitions used in the Code, to clarify the height exceptions that are allowed for accessory structures, to clarify the filling, grading, dredging, ditching, tiling and excavation regulations allowed under the Code, to clarify the provisions relating to the accommodations that are allowed for the disabled, to remove the Administrative Adjustment provisions of the Code, to clarify certain uses that are allowed in the Code and to correct an error in the list of urbanized roads listed in Appendix 1 of the Code..

The proposed changes are necessary in order to comply with the recently amended Wisconsin State Statutes under 2017 Acts 67 & 68.

Amendment Details

The proposed amendments to the Land Use Code include the following changes:

Conditional Use Permits (CUP)

- The CUP process will require a class 2 notice, a public hearing and review and approval by the Committee.
- The Committee will be required to grant a CUP application if an applicant meets, or agrees to meet, all of the requirements specified in the Ordinance and those conditions imposed by the Committee.
- All conditions imposed by the Committee must be related to the purpose of the Ordinance and be based on substantial evidence.
 - Substantial evidence will be defined in the Code as: “Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”
- A CUP will remain in effect as long as the conditions upon which the permit was issued are followed, however, the Committee is authorized to limit the permit’s duration.
- If a CUP is denied, the applicant will have the right to appeal the decision in circuit court.

Non-conforming Structures

Non-conforming structures are guaranteed certain protections under current law. In accord with the new legislation, language is being added to the Code to that the County may not prohibit or limit repair, maintenance, renovation, remodeling or rebuilding a legal existing non-conforming structure provided the repair, maintenance, renovation or rebuilding project does not extend beyond the footprint of the existing non-conforming structure.

Variances

Language is being added to the Code to clarify that a property owner bears the burden of proving “unnecessary hardship” for area variances by demonstrating that strict compliance with the ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose, or that strict compliance would render conformity with the ordinance unnecessarily burdensome.

Language is also being added to the Code to clarify that variance decisions expire one year after the decision is filed unless certain criteria listed in the Ordinance are met.

Freezing of Regulations upon Submittal of an Initial Application

A code provision is being added to clarify that if a project requires more than one approval or approvals from one or more city, village, county or town, and the applicant identifies the full scope of the project at the time they file the first application, the regulations in place at the time of the initial filing will apply to all subsequent approvals for the project.

Use and Conveyance of Legally Created Substandard Lots

In accord with new legislation, a County cannot prohibit a property owner from taking the following actions:

- Conveying an ownership interest in a substandard lot;
- Using a substandard lot as a building site, if both of the following criteria apply:
 - The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - The substandard lot or parcel is developed to comply with all other ordinances of the County.

The proposed amendments to the Code include the new prohibitions.

Lot Merger Provisions

Under the County’s current regulations, when two or more legal lots of record are under common ownership and control and are contiguous, and one or more of the lots are nonconforming with regard to lot area, lot frontage, lot width or lot depth, the owners are required to “merge” the lots and the owners cannot use or sell the non-conforming lots as separate lots. The new legislation prohibits a county from enacting or enforcing a code that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged. The proposed amendments to the Code include the deletion of the existing lot merger provisions from the Code and the addition of the new restrictions.

Subdivision Platting and Certified Survey Map Changes

The current code provisions regarding the preliminary and final plat submission procedures are outdated. The proposed amendments to the platting provisions of the code will include the minimum statute requirements for plat submissions and approvals. The amendments will also include the ordinary high water mark statement requirements and the Public Trust information statements that are required under Chapter 238 Wis. Stats. to be shown on a certified survey map. The proposed amendments will bring the platting and CSM provisions of the code into compliance with the applicable statutes.

Administrative Adjustments

Under current Code, the Land Use Administrator is authorized to grant approval of administrative adjustments which are defined as modifications of 10 percent or less of any numeric dimensional standard set out in Chapter 5 of the Code, except those standards related to water setbacks, residential density or nonresidential intensity. Based on County records, the administrative adjustment provisions of the code have rarely been used and the

applications that have been submitted have been denied by the Land Use Administrator and/or have been forwarded onto the Board of Adjustment for review as a variance request. One of the proposed amendments to the Code is to remove the administrative adjustment option from the code. The applicant will still have the option to utilize the variance request procedures when requesting any modifications to the dimensional standards of the Code.

“Use” Table Additions

The following specific uses will be added to Table 3.6-1 Use Table. Uses that are specifically listed in the table are only allowed or conditionally allowed within the districts that are listed in the table, not within the districts that allow a broader classification.

- Wedding/Events facility located in a repurposed agricultural building (CUP in Agricultural districts);
- Game Farms, Shooting Preserves (CUP in the A-2 District) ;
- Automobile, Truck and Motorcycle Repair (Allowed in the Industrial Districts, CUP in the C-2 and A-2 District);
- Filling, grading, dredging, draining, tiling and excavating (Allowed in all districts).

Filling, Grading, Dredging, Draining, Ditching, Tiling and Excavating

Development standards for filling, grading, dredging, draining, ditching, tiling and excavating provisions of the Code are being added to Section 8 in order to clarify the existing code requirements and to clarify what projects are exempt from the permitting process.

Accommodations for the Disabled

Provisions related to permit accommodations that can be made for the disabled in accord with state law are being added to the code in order to clarify the permit exemptions that are allowed under the Code for the disabled.

Definitions

Miscellaneous definitions are being added to the Code that are necessary in order to clarify the definitions of these terms as used in the code.

Urbanized Road Correction

A portion of County Road WS that is located in Section 31 in the Town of Herman and Section 4 in the Town of Rubicon is included within the current list of roads that are designated by the County as “Urbanized Roads”. The proposed amendment corrects a typographical error that was noticed in the current road description for this road.

Land Use Code Provisions:

- 1) Subsection 2.3.3.B of the Land Use Code states that a petition for the amendment of the Land Use Code may be made by any property owner in the area to be affected by the amendment, by the Town Board of any Town in which the code is in effect, by any member of the County Board, by the Board of Adjustment, or by the Committee.
- 2) Subsection 2.2.3.C through F of the Land Use Code detail procedural matters and the form of the petition. The committee must hold a public hearing and report a recommendation to the County Board.
- 3) Subsection 2.3.3.I requires that recommendations and decisions on Land Use Code amendments shall be based on consideration of the following (4) criteria:
 - 2.3.3.I.1 Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact;
 - 2.3.3.I.2 Whether the proposed amendment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

2.3.3.1.3 Whether the proposed amendment will protect the health, safety, or general welfare of the general public; and

2.3.3.1.4 Whether the proposed amendment will result in significant adverse impacts on the natural environment, including air, water, stormwater management, wildlife and vegetation.

4) Subsection 2.3.3.J of the Land Use Code states the role of Town Boards in the amendment process.

Purpose Statement

The purpose of the Land Use Code is to promote and protect the public health, safety, peace, comfort, and general welfare while allowing for cost-saving efficiencies.

STAFF ADVISORY:

This staff advisory is only advice to the Land Resources and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.

The staff has reviewed the proposal for compliance with the criteria listed in Sections 2.3.3 I of the code. The staff comments are listed in Exhibit A for review by the committee.

It is the staff's position that the amendments as proposed will bring the Code into compliance with the recently amended State Statutes and will correct an error or meet the challenge of changing conditions and development trends within the County. It is also the staff's position that the proposed amendments are consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code, the amendments will not result in significant adverse impacts on the natural environment and the amendments will protect the health, safety and general welfare of the general public. The staff recommends that the Committee report favorably to the County Board of Supervisors on this petition as proposed.

EXHIBIT A

Staff Review Comments

The staff has reviewed the proposal for compliance with the criteria listed in Section 2.3.3 I of the code. The staff comments are as follows:

2.3.3.I Approval Criteria

Recommendations and decisions on Land Use Code amendments shall be based on consideration of the following criteria:

2.3.3.I.1 Does the proposed amendment correct an error or meet the challenge of some changing condition, trend, or fact;

- It is the staff's position that proposed amendments will bring the Code into compliance with the recently enacted legislation and the amendments will correct an error and meet the challenge of changing conditions and enforcement trends within the County.

2.3.3.I.2 Is the proposed amendment consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

- It is the staff's position that the proposed amendments are consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code.

2.3.3.I.3 Will the proposed amendment protect the health, safety, or general welfare of the general public;

- It is the staff's position that the proposed amendments will protect the health, safety, and general welfare of the public.

2.3.3.I.4 Will the proposed amendment result in significant adverse impacts on the natural environment, including air, water, stormwater management, wildlife and vegetation.

- It is the staff's position that the proposed amendment will not result in significant adverse impacts on the natural environment.

2.3.3.J Approval by Affected Town Boards

Approval of amendments to this Code by affected town boards shall occur pursuant to the procedures set forth in Section 2.2.15.

- The Town of Hubbard has submitted a recommendation in favor of the proposed amendments.
- No other Towns have submitted certified resolutions in favor or against the petition to the County Clerk as of the date of the public hearing.

PETITION TO AMEND THE LAND USE CODE OF DODGE COUNTY, WISCONSIN

We, the Dodge County Planning, Development and Parks Committee, petition to amend the Land Use Code, Dodge County Wisconsin as shown in "Exhibit A"

The petition includes amendments related to limiting the authority of the County to regulate development on substandard lots and requiring the merging of lots; requiring the issuance of a conditional use permit under certain circumstances; clarifying the standards for granting certain variances, clarifying the provisions for when a land use permit is not required, and clarifying the requirements related to the repair, rebuilding, and maintenance of certain nonconforming structures. These amendments are necessary in order to bring the code into compliance with the recently amended Wisconsin State Statutes (2017 Acts 67 & 68).

The petition also includes changes to the Certified Survey Map and Plat submission provisions of the Code and a series of miscellaneous housekeeping amendments to the Code that are necessary in order to clarify certain definitions used in the Code, to clarify the height exceptions that are allowed for accessory structures, to clarify the filling, grading, dredging, ditching , tiling and excavation regulations allowed under the Code, to clarify the provisions relating to the accommodations that are allowed for the disabled, to remove the Administrative Adjustment provisions of the Code, to clarify certain uses that are allowed in the Code and to correct an error in the list of urbanized roads listed in Appendix 1 of the Code.

Respectfully submitted this _____ day of _____, 2018

Tom Schaefer

Tom Schaefer

Allen Behl

Allen Behl

William Mueche

William Mueche

Joseph Marsik

Joseph Marsik

Janice K Bobholz

Janice Bobholz

Planning, Development and Parks Committee

Exhibit A

Proposed changes:

Additions in text are indicated by underline; deletions by ~~single strikethrough~~.

1. Create Section 1.4.4.D as follows:

1.4.4.D A Land Use Permit shall not be required for the construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the project may include limited filling, flooding, draining, dredging, ditching, tiling or excavating provided all of the following apply:

1. The utility is installed totally within the road right-of-way;
2. The Department of Natural Resources has issued all required permits and approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283 Wis. Statutes;
3. The applicable Highway Department has issued all required permits and approvals authorizing the construction or maintenance work within their respective road right-of-way;
4. The project is conducted in a manner that employs best management practices to infiltrate or otherwise control storm water runoff from the facility;
5. Any significant adverse impacts on the natural environment are mitigated to the maximum practical extent.

2. Modify Section 1.4.4 as follows:

1.4.4 No structure, land or water, shall hereafter be used and no structure, or part thereof shall hereafter be located, erected, moved, reconstructed, extended, converted or structurally altered without a Land Use Permit and/or a Conditional Use Permit, if required, except as allowed in Section 1.4.4.A through 1.4.4.D ~~§~~, without full compliance with the provisions of this Code and all other applicable County and State Regulations.

3. Modify Section 2.1.3.C.2 as follows:

2.1.3.C.2 Variances

The Board of Adjustment shall be responsible for authorizing upon appeal in specific cases variances from the terms of the Code that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Code will result in unnecessary hardship, and so that the spirit of the Code shall be observed and substantial justice done. ~~hearing and granting variances where, owing to special conditions, a literal enforcement of this Code would result in practical difficulty or unnecessary hardship.~~ (See Section 2.3.12)

4. Modify Section 2.1.4.B.2 as follows:

2.1.4.B.2 Administrative Adjustments

(Deleted on insert date)

~~The Land Use Administrator shall be responsible for reviewing applications for Administrative Adjustments and acting to approve, approve with conditions, or disapprove such applications. (See Section 2.3.2)~~

5. Modify Section 2.2.2 as follows:

2.2.2 Application Completeness

An application will be considered complete if it is submitted in the required number and form, includes all mandatory information, and is accompanied by the applicable fee. The Land Use Administrator shall make a determination of application completeness within 10 days of application filing. If an

application is determined to be incomplete, the Land Use Administrator shall notify the applicant of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. ~~If the deficiencies are not corrected by the applicant within 30 days of receiving notice of the deficiencies, the application shall be considered withdrawn.~~

2.2.2.A (s. 66.10015 (2) (c) Wis. Stats.) An application shall expire not less than 60 days after filing if all of the following apply:

2.2.2.A.1 The application does not comply with the form and content requirements of the Code.

2.2.2.A.2 Not more than 10 working days after filing, the County provides the applicant with written notice of the noncompliance. The notice shall specify the nature of the noncompliance and the date on which the application will expire if the noncompliance is not remedied.

2.2.2.A.3 The applicant fails to remedy the noncompliance's before the date provided in the notice.

6. Modify Section 2.2.6.E as follows:

2.2.6.E Timing of Notices

Unless otherwise expressly provided in state statutes or this Code, notice, when required, shall be mailed or published at least 8 days prior to the hearing or action for changes or amendments to the Code, rezonings, conditional use permits, or appeals to the Board of Adjustment in accordance with Class II notice requirements. For all other actions requiring notice, notice shall be mailed or published at least 7 days prior to the hearing or action in accordance with Class I notice requirements.

7. Modify Section 2.2.11 as follows:

2.2.11 Findings of Fact

Final decisions of all review and decision-making bodies shall be accompanied by written findings of fact based upon the applicable standards and criteria. The findings shall be filed with the **Planning and Development** Department. In the event of denial, the written findings shall specify the provisions of the County's adopted regulations that the proposal failed to satisfy.

8. Create Section 2.2.17 as follows:

2.2.17 Use of Existing Requirements (s. 66.10015 (2) Wis. Stats.)

2.2.17.A Except as provided under section 2.2.17.B, if a person has submitted an application for an approval, the County shall approve, deny or conditionally approve the application solely based on existing requirements, unless the applicant and the County agree otherwise. An application is filed under this subsection on the date that the County receives the application.

2.2.17.B If a project requires more than one approval or approvals from one or more political subdivision and the applicant identifies the full scope of the project at the time of filing the application for the first approval required for the project, the existing requirements applicable in each political subdivision at the time of filing the application for the first approval required for the project shall be applicable to all subsequent approvals required for the project unless the applicant and the political subdivision agree otherwise.

9. Delete "Administrative Adjustments" from Table 2.3.1.

10. Modify Sections 2.3.2 through 2.3.2 E Administrative Adjustments.

2.3.2 (The Administrative Adjustment provisions of the Code were deleted on *Insert date*)

~~2.3.2 Administrative Adjustments~~

~~2.3.2.A Applicability~~

~~This section sets out the required review and approval procedures for Administrative Adjustments, which are modifications of 10 percent or less of any numeric Dimensional Standard set out in Chapter 5, except those related to water setbacks, residential density, or nonresidential intensity.~~

~~2.3.2.B Application Filing~~

~~Applications for Administrative Adjustments shall be submitted to the Land Use Administrator.~~

~~2.3.2.C Review and Action~~

~~The Land Use Administrator shall review each application for an Administrative Adjustment and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 2.3.2(D).~~

~~2.3.2.D Approval Criteria~~

~~Administrative Adjustments may be approved by the Land Use Administrator only upon a finding that: (1) the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or (2) all of the following criteria have been met:~~

~~2.3.2.D.1 The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;~~

~~2.3.2.D.2 The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;~~

~~2.3.2.D.3 Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and~~

~~2.3.2.D.4 The requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.~~

~~2.3.2.E Hearings~~

~~No public hearing is required for an Administrative Adjustment. However, the Land Use Administrator may refer the application to the Board of Adjustment, who may schedule a public hearing on an Administrative Adjustment if they consider the application to be controversial, or believe granting the Administrative Adjustment would have an adverse impact upon surrounding property owners or the County as a whole. Additionally, the Land Use Administrator shall schedule a public hearing on the Administrative Adjustment application if requested to do so by the applicant. In such cases, written and published notice shall be provided for the public hearing pursuant to the general notice provisions of Section 2.2.6. The Board of Adjustment shall base its decision upon input received at the public hearing and upon the Approval Criteria of Section 2.3.2(D).~~

11. Modify Section 2.3.6 through 2.3.6.J as follows:

2.3.6 Conditional Use Permits

In this subsection:

"Conditional use" means a use allowed under a conditional use permit, special exception or other special zoning permission issued by a county, but does not include a variance.

"Substantial Evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

The Committee shall authorize the Land Use Administrator to issue a Conditional Use Permit (CUP) for conditional uses after review and a public hearing, provided that such conditional uses are found to be in accordance with the purpose and intent of this Code and the approval criteria provided in Section 2.3.6.F.

2.3.6.A Procedure

All Conditional Use Permit applications shall be submitted to the Land Use Administrator upon forms provided by the Department. The applicant must demonstrate that the application and all requirements established by the County relating to the conditional use permit request are or will be satisfied and are supported by substantial evidence. Applications for a conditional use permit shall include the following:

2.3.6.D Committee Review and Decision

2.3.6.D.1 The Committee shall hold a public hearing on the application and following the public hearing shall approve, approve with conditions or deny the conditional use permit application within 15 days after the public hearing based on the general approval criteria listed in 2.3.6.F unless the time is extended by written agreement with the applicant. Failure of the Committee to take final action within 15 days after the public hearing or within the time as extended by agreement with the applicant shall constitute an approval of the conditional use permit as proposed.

2.3.6.D.2 If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this Code or those imposed by the Committee, the Committee shall grant the conditional use permit.

2.3.6.D.3 The requirements and conditions must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal.

2.3.6.D.4 The applicant must demonstrate that the application and all requirements of the Code relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.

2.3.6.D.5 The Committee decision to approve or deny the permit application must be supported by substantial evidence.

2.3.6.E Compliance with all other provisions of this Code, such as lot width and area, yards, height, parking, loading, traffic, highway access, and the performance standards, shall be required of all conditional uses, except as modified by this Section 2.3.6.

2.3.6.F General Approval Criteria for Conditional Use Permits

Conditional Use Permits shall be approved by the Committee if they find that all of the following criteria have been met and the applicant agrees to meet the conditions specified in the Code, and those imposed by the Committee:

2.3.6. F.1 The proposed use complies with all applicable provisions of this Code;

2.3.6. F.2 The proposed use is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

2.3.6. F.3 The proposed use will not be significantly detrimental to the public health, safety and welfare unless the use is a public necessity;

2.3.6. F.4 The proposed use will not cause a substantial ~~diminution~~ decrease in value of other property in the neighborhood in which it is to be located;

2.3.6.F.5 Public safety, transportation and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development;

2.3.6.F.6 Adequate assurances of continuing maintenance have been provided;

2.3.6.F.7 Any significant adverse impacts on the natural environment will be mitigated to the maximum practical extent;

2.3.6.F.8 The proposed use will not be located in any hazard areas, including floodplains, floodways, etc., unless any potential danger is mitigated to the maximum extent possible, and to the satisfaction of the Wisconsin Department of Natural Resources.

2.3.6.G Conditions

The Committee may attach such conditions, in addition to those required elsewhere in this Code, that it deems necessary in furthering the purpose of this Code. Any condition imposed by the Committee must be related to the purpose of the Code and be based on substantial evidence. The requirements and conditions must be reasonable and, to the extent practicable, measurable. Violation of any of these conditions shall be deemed a violation of this Code.

2.3.6.G.1 Type of shore cover;

2.3.6.G.2 Increased setback and yards;

2.3.6.G.3 Specified sewage disposal and water supply facilities;

2.3.6.G.4 Landscaping and planting screens;

2.3.6.G.5 Hours of operation;

2.3.6.G.6 Operational control;

2.3.6.G.7 Sureties;

2.3.6.G.8 Deed restrictions,

2.3.6.G.9 Locations of piers, docks, parking and signs; or

2.3.6.G.10 The permit's duration, transfer or renewal requirements;

2.3.6.G.11 Type of construction; or

2.3.6.G.12 Any other requirement necessary to fulfill the purpose and intent of this Code.

2.3.6.H Additional Information

In evaluating each application, the Committee may request assistance from other local, county, state or federal agencies. Also, in order to secure information upon which to base its determination, the Committee may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:

2.3.6.H.1 A plan of the area showing contours, soil types, highwater mark, groundwater conditions, bedrock, slope and vegetative covers.

2.3.6.H.2 Location of buildings, parking areas, traffic access, driveways, walkways, open space, landscaping, signs, and lighting;

2.3.6.H.3 Plans for buildings, sewage disposal facilities, water supply systems, and arrangement of operations;

2.3.6.H.4 Other pertinent information necessary to determine if the proposed use meets the requirements of this Code.

2.3.6.I Expiration of Conditional Use Permits

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, however, the County may impose conditions such as the permit's duration, transfer or renewal, in addition to any other conditions specified in the Code.

2.3.6.I.1 The decision of the Committee to approve or conditionally approve a Conditional Use Permit request shall expire one year after its effective date after the decision is filed with the Department or at such alternative time specified in the approval unless:

2.3.6.I.1.a Construction has been diligently pursued;

2.3.6.I.1.b A Certificate of Zoning Compliance has been issued;

2.3.6.I.1.c. The use is established; or

2.3.6.I.1.d The Conditional Use Permit is renewed, for a period not to exceed one year.

2.3.6.I.2 A Conditional Use Permit also shall expire upon termination of a project or if the rights granted by the permit are discontinued for 180 consecutive days.

2.3.6.J Appeals

If the Committee denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in s. 59.694(10) Wis. Stats.

12. Modify Section 2.3.9.F.2.b.vii through 2.3.9.F.2.d as follows:

2.3.9.F.2.b Additional Information

The map shall show correctly on its face, in addition to the information required by Section 236.34 of the Wisconsin Statutes, the following:

2.3.9.F.2.b.i Date of map preparation;

2.3.9.F.2.b.ii Graphic scale;

2.3.9.F.2.b.iii Names and addresses of the owner, subdivider and surveyor;

2.3.9.F.2.b.iv Parcel identification number

2.3.9.F.2.b.v All existing buildings, watercourses, drainage ditches, road access and other features pertinent to proper division;

2.3.9.F.2.b.vi Names of adjoining streets, highways, parkways, cemeteries, subdivisions, ponds, streams, lakes, flowages, and wetlands;

2.3.9.F.2.b.vii Acreage included in each parcel, excluding road rights-of-way. If the survey map crosses a municipal boundary line, the acreage included in each portion of the parcel that is located in each municipality shall be shown on the map.

2.3.9.F.2.b.viii The regional floodplain boundaries as designated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) dated April 2010.

2.3.9.F.2.b.ix Ordinary highwater mark of lakes, ponds, or streams;

An ordinary highwater mark of lakes, ponds and streams shall be shown on the certified survey map in accord with s. 236.025 Wis. Statutes, as determined by the Department of Natural Resources/pursuant to law, or shall be shown as "approximate" on the survey. If the ordinary high water mark is approximated, the location shall be a point on the bank to which the presence and action of the water is so continuous as to leave a distinct mark. Such approximate ordinary high water mark must be labeled "for reference only".

Public trust information – Any plat or CSM which includes lots or out-lots that go to the water's edge must include the following statement: "Any land below the ordinary highwater mark of a lake of navigable stream is subject to the public trust in navigable waters that is established under article IX, Section 1 of the State Constitution."

2.3.9.F.2.d Certificates

The surveyor shall certify on the map that he has fully complied with all the provisions of this Code. The Committee or the Land Use Administrator, ~~acting as Deputy County Clerk,~~ shall certify approval on the face of the map.

13. Modify and renumber Section 2.3.10.C.2 through 2.3.10.D.7 as follows:

2.3.10.C.2 Preparation of the Preliminary Plat

The Preliminary Plat shall be prepared in accordance with Chapter 236, Wisconsin Statutes and Chapter 7 of this Code. The subdivider or the subdivider's agent shall be required to submit an electronic copy of the Preliminary Plat and 4 copies of the plat that are capable of clearly legible reproduction, to this Department along with a complete major land division application and the applicable application fees at least 60 days prior to the meeting of the Committee at which action is desired. The subdivider shall also be required to submit the Preliminary Plat to the applicable approving agencies in accord with Chapter 236.12(2)(a) Wisconsin Statutes and to the State Department of Administration – State Plat Review Department in accord with Chapter 236.12(2)(ac) Wisconsin Statutes.

2.3.10.C.2 Referrals

The Land Use Administrator shall, within 2 days after filing, transmit copies of the application to those individuals and entities as required by Wis. Stat. 236.12, and may distribute the application to other reviewers the Land Use Administrator considers appropriate. The copies shall be distributed as follows:

2.3.10.C.2.a Two copies to the town board in which the plat is located;

2.3.10.C.2.b Two copies to the clerk of each adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village;

2.3.10.C.2.c Two copies for each of the state agencies required to review the plat to the Wisconsin Department of Administration – Plat Review or other state agency responsible for the review of plats

~~(i.e. State Department of Administration, State Department of Transportation, State Department of Commerce, etc.);~~

~~2.3.10.C.2.d Two copies to the school district in which the plat is located;~~

~~2.3.10.C.2.e Two copies to the sanitary district in which the site is located, if applicable;~~

~~2.3.10.C.2.f One copy each to the County Highway Department, the Land Conservation Department, and all affected Utility Companies for their review and recommendations concerning matters within their jurisdictions; their recommendations, if any; shall be transmitted to the Committee within 30 days from the date the Preliminary Plat is filed.~~

2.3.10.C.3 Approving Agencies and Objecting Agencies

2.3.10.C.3.a Designation

~~The Committee, the town wherein the plat is located, and each adjoining city or village in whose extraterritorial plat approval jurisdiction the subdivision lies are designated approving agencies for purposes of this section. The Wisconsin Departments of Administration and Transportation shall be referred to as objecting agencies for purposes of this section.~~

2.3.10.C.3.b Objecting Agency Action

~~The objecting agencies shall, within 20 days of the date of receiving their copies of the Preliminary Plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on their copy of the Plat and shall return that copy to the Land Use Administrator. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the Plat.~~

2.3.10.C.4.3 Land Use Administrator's Review and Recommendation

Upon receipt of a complete preliminary plat application, the Land Use Administrator shall review each proposed Preliminary Plat in light of the Approval Criteria of Section 2.3.10(C)(10), and the comments received from approving and objecting agencies. Based on the results of those reviews, the Land Use Administrator shall recommend approval, approval with conditions, or denial of the application to the Committee. Failure of the Land Use Administrator to make a recommendation within 90 days of his receipt of the complete Preliminary Plat application shall constitute a recommendation for approval of the application unless the applicant agrees in writing to an extension of this period.

2.3.10.C.5.4 Committee's Review and Decision

~~2.3.10.C.4.a~~ The Committee shall hold a public hearing on the Preliminary Plat application, which shall receive written and published notice pursuant to the general notice provisions of Section 2.2.6. Following the public hearing, the Committee shall by majority vote approve, approve conditionally, or reject the Preliminary Plat based on the Approval Criteria of Section 2.3.10(C)(~~10-8~~). Where, in the judgment of Committee, literal interpretation of the approval criteria or standards provided in Chapter 7 of this Code would result in exceptional or undue hardship, the Committee may waive or modify any requirements to the extent deemed necessary to relieve the exceptional or undue hardship. Such relief shall be granted without detriment to the public good, impairment of the purpose and intent of this Land Use Code, or conflict with the County Comprehensive Plan.

~~2.3.10.C.5.4.b~~ The Committee shall take its final action within 90 days of the date of filing of the Preliminary Plat with the Land Use Administrator, and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Committee to act within 90 days or within the time as extended by agreement with the subdivider shall constitute an approval.

~~2.3.10.C.5.4.c~~ One copy of the Plat shall be returned to the subdivider with the date and action endorsed on it; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the Plat. One copy each of the Plat and letter shall be placed in the Department's permanent file.

2.3.10.C.6 5 Effect on Final Plat Approval

If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not submitted within 36 months after the last required approval of the preliminary plat, any approval authority may refuse to approve the final plat or may extend the time for submission of the final plat. The final plat may, if permitted by the approving authority, constitute only that portion of the approved preliminary plat that the subdivider proposes to record at that time.

~~Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within 36 months after the last required approval of the Preliminary Plat, unless the time is extended by agreement with the subdivider and the final plat conforms substantially to the Preliminary Plat layout as indicated in Wis. Stat. Section 236.11 (1) (b), the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat which will be subject to further consideration by the Committee at the time of its submission.~~

2.3.10.C.7 6 Technical Disputes

As a means of resolving technical disputes between the applicant's licensed or registered professionals and the County, such disputes may be referred to the appropriate state department for a recommendation.

2.3.10.C.8 7 Expiration of Preliminary Plat Approval

An approved Preliminary Plat shall expire and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within 36 months of the Preliminary Plat approval by the Committee. If the subdivision is to be developed in phases, a phasing plan shall be approved as part of the Preliminary Plat approval. If approval expires, the Land Use Administrator shall record an expiration of approval affidavit with the Dodge County Register of Deeds.

2.3.10.C.9 Preliminary Plats Within Extraterritorial Plat Approval Jurisdiction

~~When land to be subdivided lies within 1 ½ miles of the corporate limits of a fourth class city or village or within 3 miles of all other cities, and these cities or villages have adopted and exercise extraterritorial plat review, the subdivider shall proceed as specified in Sections (1) through (5) above, except:~~

~~**2.3.10.C.9.a** Transmittal responsibility lies with the village clerk, city clerk, town clerk, or County Planning and Development Department to whomever the Plat is first submitted; and the subdivider shall indicate which one in his application.~~

~~**2.3.10.C.9.b** Approving Agencies include the village plan commission or village board, or city plan commission or common council, town board, and the Committee, and the subdivider must comply with the land division ordinances of these agencies.~~

~~**2.3.10.C.9.c** The subdivider may not proceed with the installation of any improvements as may be required by a town board, village board or city council in the matters over which they have jurisdiction until the Committee has received and approved or conditionally approved the Preliminary Plat.~~

~~**2.3.10.C.9.d** All improvement requirements specified by the town board, village board, common council, County, or any special improvement district in matters over which they have jurisdiction, shall be met before filing of the Final Plat.~~

2.3.10.C.10 8 Approval Criteria

A Preliminary Plat may be approved by the Planning and Development Committee after considering whether:

2.3.10.C.40 8.a The proposed subdivision furthers the goals and policies of the County's Comprehensive Plan;

2.3.10.C.40 8.b The proposed subdivision complies with the standards and design requirements of this Code;

2.3.10.C.40 8.c The proposed subdivision has made adequate provision for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

2.3.10.C.40 8.d The proposed subdivision has made adequate provision for sewage disposal which complies with federal, state and local laws and regulations;

2.3.10.C.40 8.e The proposed subdivision can be accommodated within the school district in terms of the school's capacity to accept the estimated number of additional students;

2.3.10.C.40 8.f The proposed subdivision is compatible with the soil and topographical conditions of the site;

2.3.10.C.40 8.g The location of the proposed subdivision is suitable for development at this time and will not result in a premature subdivision or a scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels;

2.3.10.C.40 8.h A driveway access permit has been issued or a letter has been received indicating that such a permit will be issued;

2.3.10.C.40 8.i The subdivider has, to the maximum extent feasible, taken every effort to mitigate the impact of the proposed subdivision on public health, safety and welfare;

2.3.10.C.40 8.j The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state and local laws and regulations; and

2.3.10.C.40 8.k The proposed subdivision has an approved soil erosion control plan and stormwater management plan.

2.3.10.D Final Plat

After approval of a Preliminary Plat, a Final Plat application for the subdivision may be submitted.

2.3.10.D.1 Application Filing

~~Final Plat applications shall be submitted to the Land Use Administrator.~~

2.3.10.D.1 Application Filing

Final Plat applications shall be submitted to the Land Use Administrator along with a Final Plat application form furnished by the Department.

2.3.10.D.2 Preparation of Final Plat

The Final Plat shall be prepared in accordance with Chapter 236, Wisconsin Statutes and Chapter 7 of this Code. The subdivider or the subdivider's agent shall be required to submit an electronic copy of the Final Plat and 4 copies of the plat that are capable of clearly legible reproduction, to this Department along with a complete Final Plat application and the applicable application fees at least 60 days prior to the meeting of the Committee at which action is desired. The subdivider shall also be required to submit the Final Plat to the applicable approving agencies and to the State Department of Administration – State Plat Review Department in accord with Chapter 236.12 Wisconsin Statutes.

2.3.10.D.2 Referrals

~~The Land Use Administrator shall, within 2 days after filing, transmit copies of the application to those individuals and entities as required by Wis. Stat. 236.12, and may distribute the application to other reviewers the Land Use Administrator considers appropriate. The copies shall be distributed as follows:~~

~~2.3.10.D.2.a Two copies to the Town Board in which the plat is located;~~

~~2.3.10.D.2.b Two copies to the clerk of each adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village;~~

~~2.3.10.D.2.c Two copies for each of the state agencies required to review the plat to the Wisconsin Department of Administration – Plat Review or other state agency responsible for the review of plats (i.e. State Department of Administration, State Department of Transportation, State Department of Commerce, etc.);~~

~~2.3.10.D.2.d Two copies to the school district in which the site is located;~~

~~2.3.10.D.2.e Two copies to the sanitary district in which the site is located, if applicable;~~

~~2.3.10.D.2.f One copy each to the County Highway Department, Land Conservation Department, and all affected utility companies for their review and recommendations concerning matters within their jurisdictions; their recommendations, if any, shall be transmitted to the Committee within 30 days from the date the Plat is filed.~~

2.3.10.D.3 Land Use Administrator's Action

The Land Use Administrator shall review each Final Plat application and shall provide the committee his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and shall recommend that the Committee approve, approve with conditions or deny the Final Plat, based on the Approval Criteria of Section 2.3.10(D)(5). The recommendation shall be made part of the record of the proceeding at which the final plat is being considered.

2.3.10.D.5 Approval Criteria

The Committee may approve a Final Plat only if the Committee determines that the Final Plat substantially complies with the approved Preliminary Plat and includes all corrections and conditions imposed by the Committee during their approval of the Preliminary Plat; and complies with this Code and all other ordinances, rules, regulations, plans, and plan components which may affect it.

2.3.10.D.7 Submission Timing

If the Final Plat is not submitted within 36 months of the last required approval of the Preliminary Plat, the Committee may refuse to approve the Final Plat or may. ~~The committee may~~ extend the time for submission of the final plat.

14. Modify Section 2.3.12 through 2.3.12.H as follows:

2.3.12 Variances

In this subsection, an "Area Variance" means a modification to a dimensional, physical, or locational requirements such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the Board of Adjustment under this subsection and a "Use Variance" means an authorization by the Board of Adjustment under this subsection for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable code.

2.3.12.E.5 For a "Use Variance" that strict compliance with the provisions of this Code would leave the property owner with no reasonable use of the property in the absence of a variance; ~~literal interpretation of the provisions of this Code will leave no practical use of the land or building; and~~

2.3.12.E.6 For an "Area Variance" that strict compliance with the provisions of this Code would unreasonably prevent the property owner from using the property owners property for a permitted purpose or would render conformity with the Code unnecessarily burdensome;

2.3.12.E.7 A variance may not be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction error, economic gain, self-created hardship or where the property is presently a non-conforming use.

2.3.12.F Burden of Proof

In all circumstances, a property owner bears the burden of proving that the "unnecessary hardship" as it is used in subsections 2.3.12.E.5 and 2.3.12.E.6 is present and is based on conditions that are unique to the property, rather than considerations personal to the property owner and that the unnecessary hardship was not created by the property owner.

2.3.12.G Expiration of Approval

Any decision or order issued by the Board of Adjustment requiring the Land Use Administrator to issue a permit shall expire after one year after the decision is filed with the Department or at such alternative time specified in the approval process unless:

2.3.12.G.1 The applicant or appellant has filed a land use permit application with the Department for the applicable project within such time, provided, that the time may be extended when so specified by the Board of Adjustment.

2.3.12.G.2 Construction has been diligently pursued;

2.3.12.G.3 The land use permit is renewed, for a period not to exceed one year; or

2.3.12.G.4 A Certificate of Zoning Compliance has been issued.

2.3.12.H A variance granted under this subsection runs with the land.

15. Modify Table 3.6-1 as follows:

Uses	R-1	R-2	R-3	C-1	C-2	I-1	I-2	A-2	Description	Reference
Residential Uses:									6.1.2	
Household Living:									6.1.2-A	
1. Single Family Dwelling, Detached Residential Use	A	A	A	C	C	C	C	A		5.2.1,6.2.8,6.2.9
2. Two Family Dwelling Residential Use		A	A	C	C			C		6.2.8,6.2.9
3. Multi-Family Dwelling Residential Use , 3 to 7 Units			A	C						6.2.9
4. Multi-Family Dwelling Residential Use , 8 or more Units			C	C						6.2.9
5. Mobile Home Parks and Trailer Courts			C					C		6.2.7,6.2.8 6.2.9

Agricultural Uses:									6.1.6	
Animal Confinement Facilities:									6.2.11	
1. General Livestock								C	6.2.11	
2. Fur Farms								C	6.2.11	
3. Stockyards and Livestock Sales					C			C	6.2.11	
4. Agricultural Trucking Companies						A	A	C		
5. Wedding/Events Facility within an existing rehabilitated agricultural structure								C		

	R-1	R-2	R-3	C-1	C-2	I-1	I-2	A-2	Description	Reference
Recreation and Entertainment, Outdoor:									6.1.4-L	
1. Bait Shops				C	A			C		6.2.4
2. Boat Launches	C	C	C		C			C		6.2.4
3. Entertainment and Recreation Except Adult				C	C					
4. Golf Driving Ranges					C			C		6.2.4
5. Marinas					A			C		6.2.4
6. Shooting Ranges					C			C		6.2.4
7. Ski Hills and/or Lodges					C			C		6.2.4
8. <u>Game Farms, Shooting Preserves</u>								C		

Industrial Services:									6.1.5-B	
1. Agricultural Services						C	C	C		
2. Machinery and Equipment Repair					C	A	A	C	6.1.5-B,3,b	
3. <u>Automobile, Truck and Motorcycle Repair</u>					C	A	A	C	6.1.5.B.3.b	
4. Printing and Publishing				A	A	A	A			
5. Propane Gas Distributors					C	C	C		6.1.5-B,3,d	
6. Sawmills							C	C		
7. Agricultural Trucking Companies						A	A	C		
8. All Other						C	C			

Water Oriented:										
1. Boathouses	A	A	A	A	A	A	A	A	A	
2. Dams and Flowages	C	C	C	C	C	C	C	C	C	
3. Filling, <u>Grading, Dredging, Draining, Ditching, Tiling and, Excavating</u>	A	A	A	A	A	A	A	A	A	8.3
4. Watercourse Relocation	C	C	C	C	C	C	C	C	C	
5. Wildlife Ponds – Located outside of a shoreland/wetland or floodplain area;	A	A	A	A	A	A	A	A	A	

16. Modify Section 5.2.3.B and 5.2.3.C as follows:

5.2.3.B Front or Street Yard Setback

A yard extending across the full width of a lot, the depth of which shall be measured as the minimum horizontal distance between the existing or proposed street, road or highway centerline and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards. The street yard on a double frontage lot shall be the yard on which the principal structure faces and/or is addressed

5.2.3.C Rear Setback

A yard extending across the full width of the lot, the depth of which shall be measured as the minimum horizontal distance between the rear property or lot line and a line parallel thereto through the nearest point of the principal structure. A corner lot will have two side yard setbacks and no rear yard setback. The rear yard on a double frontage lot shall be the yard that is opposite the street yard on which the principal structure faces and/or is addressed.

17. Create Section 5.2.5 through 5.2.5.C as follows:

5.2.5 Accommodations for the Disabled

5.2.5.A The Committee or the Land Use Administrator may issue a Land Use Permit that waives specified Land Use Code requirements, if the Committee or Land Use Administrator determines that both of the following conditions have been met:

5.2.5.A.1 The requested accommodation (i.e. the requested waiver of land use code provisions), or other less-extensive accommodation is:

5.2.5.A.1.a Necessary to afford persons with disabilities equal access to public accommodations; and

5.2.5.A.1.b The minimum accommodations that will give the persons with disabilities adequate relief.

5.2.5.A.2 The accommodation will not unreasonably undermine the basic purposes the Land Use Code seeks to achieve.

5.2.5.B In granting a waiver to specified land use code requirements under this provision, the Committee or the Land Use Administrator may require that the modifications granted to accommodate the disabilities shall be removed after no longer necessary.

5.2.5.C If a waiver is granted under this provision, the applicant shall be required to sign and record an affidavit with the Dodge County Register of Deeds office outlining the conditions and removal procedures associated with allowing accommodations for the disabled.

18. Modify Section 6.3.3.B as follows:

6.3.3.B Height

The maximum height of accessory buildings or structures shall not exceed 20 feet except as allowed under Section 5.1 5.1.2.N, 5.2.3.H.5 and 5.2.4.

19. Modify Section 7.1.1 as follows:

7.1.1 Applicability

The regulations of this chapter apply to all land divisions in Dodge County except those lands within incorporated municipalities, including, but not limited to, Major Subdivisions, Minor Land Divisions, replats, any other divisions of land for any purpose within Dodge County, and the preparation of plat maps and certified survey maps and other maps provided for by Wis. Stat. Chapter 236. All subdivisions and land divisions and any part thereof lying within the unincorporated parts of the County shall be made and all plat maps and certified survey maps shall be prepared and presented for approval as provided for in this Code. This chapter also expressly applies to ~~any minor land division or subdivision created by~~ the review and approval of a condominium instrument under Subsection 2.3.15.

20. Delete Section 7.3.10

7.3.10 Lot Merger

~~When two (2) or more legal lots of record are under common ownership and control and are contiguous, and one (1) or more of the lots is nonconforming to this Code as to lot area, lot frontage, lot width or lot depth, the owner shall be required to merge all contiguous, nonconforming lots with contiguous lots under common ownership and control until such contiguous, nonconforming lots are made conforming to the applicable lot area, lot frontage, lot width and lot depth provisions of the code unless an exception is provided for below.~~

~~**7.3.10.A Exceptions** — The following lots shall be exempt from the lot merger provisions set forth in this section:~~

~~**7.3.10.A.1** If at the time the lots described above become under common ownership or control, there is a lawful and preexisting principal structure on each lot, the owner shall not be required to merge the nonconforming lot or lots;~~

~~**7.3.10.A.2** If at the time the lots described above became under common ownership or control, the lot size of each commonly owned contiguous lot contains 20,000 square feet or more in lot area and the minimum lot width for each lot is 100 feet or more, the owner shall not be required to merge the nonconforming lot or lots;~~

~~**7.3.10.B** Solely for purposes of this subsection, a lot owned by one member of a married couple is not deemed to be owned by the married couple and is not deemed common ownership for purposes of merging nonconforming lots.~~

21. Modify Section 8.3 as follows:

8.3 Deleted (June 16, 2009)(Filling, grading, dredging provisions were moved to the Shoreland Overlay District)

8.3 FILLING, GRADING, DREDGING, DRAINING, DITCHING, TILING AND EXCAVATING

Filling, grading, dredging, draining, ditching, tiling and excavating may be permitted only in accordance with the erosion control and stormwater management provisions of Section 7.9 of the Dodge County Land Use Code, the applicable provisions of the Dodge County Shoreland Protection Ordinance, the applicable provisions of the Dodge County Floodplain Zoning Ordinance and other state and federal laws where applicable, and only when done in a manner to minimize sedimentation, water pollution, flooding, and related property and environmental damage caused by soil erosion and uncontrolled stormwater runoff during and after construction , in order to diminish the threats to public health, safety, welfare and the natural resources of Dodge County.

8.3.1.A PERMIT REQUIRED

Unless specifically exempted or waived by a provision of this Code, a land use permit is required for filling, grading, dredging, draining, ditching, tiling and excavating that meets any of the following criteria:

8.3.1.A.1 Disturbs 2,000 square feet or more of total land surface area;

8.3.1.A.2 Involves excavation or filling, or a combination of excavation and filling in excess of 400 cubic yards of material;

8.3.1.A.3 Disturbs 100 lineal feet of road ditch, grass waterway, or other land area where surface drainage flows in a defined open channel;

8.3.1.A.4 Involves excavation or filling, or a combination of excavation and filling on slopes of 12% or greater;

8.3.1.A.5 Involves tiling for agricultural purposes; or

8.3.1.A.6 Other land disturbing activities, including the installation of access drives that the Committee or Land Use Administrator determines to have a high risk of soil erosion or water pollution, or that may have a significant adverse impact on environmentally sensitive areas.

8.3.1.B Exemptions

8.3.1.B.1 The following sites shall be exempt from all of the requirements of this subsection, provided all such exempt activities are undertaken in a manner that presents no significant erosion or sedimentation hazard:

8.3.1.B.1.a All activities directly relating to the planting, growing, and harvesting of agricultural crops except as required under Subsection 8.3.1.A.5.

8.3.1.B.1.b Land disturbing activities exclusively subject to federal or state approval and enforcement, except as may voluntarily become subject to this Code through adopted memorandums of understanding or other, similar cooperative mechanisms.

8.3.1.B.1.c Usual and customary site investigation and surveying activities undertaken prior to submittal of an application for preliminary subdivision approval, provided such activity shall not disturb more than 5,000 square feet of land area.

8.3.1.B.1.d The construction of one- and two-family residential buildings on lots outside subdivisions, except those on slopes of 12 percent or greater, those sites with soil depths to bedrock of 60 inches or less, and sites with high water table shall be exempt from the construction site erosion control provisions of Subsection 7.9.5 of this Code.

8.3.1.B.1.e Any proposal that is designed and/or certified by the Land Conservation Department as part of a soil conservation or water pollution control project shall comply with all of the requirements of this section, but may be exempted from obtaining a permit, providing a financial guarantee, or paying a fee.

8.3.1.B.1.f Any road construction or other land disturbing or land development activity by the County, or any municipality within the County shall comply with all of the requirements of this section, but shall be exempted from any fees and financial guarantee requirements.

22. Modify Section 10.3.2. through 10.3.2.B.1 as follows:

10.3.2 Repairs, Building, Maintenance, Additions and Enlargements to Legal Existing Nonconforming Structures - The following repairs, rebuilding, maintenance, additions and enlargements to legal existing nonconforming structures are permitted by this code:

10.3.2.A Incidental Repairs and Normal Maintenance

Incidental repairs and normal maintenance of nonconforming structures shall be allowed without a County Land Use Permit unless such repairs or maintenance increase the extent of nonconformity or are otherwise expressly prohibited by this Code. For purposes of this section, "incidental repairs" shall mean repairs that are subordinate and minor in significance. Incidental repairs and normal maintenance repairs are not considered a modification or addition and are not considered an increase in the extent of the nonconformity; Incidental repairs and normal maintenance include painting, decorating, paneling, re-roofing or re-shingling a roof, replacing siding, replacement of doors, windows and other non-structural components and the maintenance, repair or replacement of existing private onsite wastewater treatment systems (POWTS) or water supply systems or connections to public utilities. Incidental repairs and ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. Nothing in this section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

10.3.2.B. Rebuilding, Additions and Modifications

No new basements, additional stories, lateral expansion or accessory construction outside of the perimeter of existing structure or building, except as allowed under this subsection, shall be permitted unless the proposed construction complies with all applicable provisions of this Code;

~~10.3.2.B.1 Rebuilding, repair or remodeling of a legal existing nonconforming structure is permitted provided the rebuilt, remodeled or repaired structure is confined to the existing three dimensional footprint of the legal existing nonconforming structure; The replacement of an existing porch or deck is permitted provided the replacement porch or deck is confined to the existing three dimensional footprint of the existing porch or deck;~~

23. Modify Section 10.5 Through 10.5.1.B as follows:

10.5 NONCONFORMING LOTS

~~In this subsection, a "substandard lot" means a legally created lot or parcel of record that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.~~

~~10.5.1 Vacant Substandard Lots~~

~~In any residential or agricultural district, a single-family detached dwelling and its accessory structures may be erected on any vacant legal lot or parcel of record recorded in the County Register of Deeds Office before the effective date or amendment of this Code, subject to the requirements set forth below.~~

~~10.5.1.A Substandard Lots 20,000 Square Feet or Greater in Lot Area and 100 Feet in Lot Width~~

~~All requirements of the Code, except the dimensional requirements referenced in the title to this subsection, shall be met.~~

~~10.5.1.B Substandard Lots Less Than 20,000 Square Feet in Lot Area or 100 Feet in Lot Width~~

~~10.5.1.B.1 Such lot must be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the area requirements of this Code.~~

~~10.5.1.B.2 Such lot must be at least 50 feet wide and 7,500 square feet in area.~~

10.5.1 Substandard lots that do not meet the lot size requirements of the Code.

A legally created lot or parcel of record that met any applicable lot size requirements when it was created, but does not meet current lot size requirements may be used as a building site if all of the following apply:

10.5.1.A The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

10.5.1.B The substandard lot or parcel is developed to comply with all other codes and ordinances of the political subdivision.

24. Delete Section 10.5.4:

~~(10.5.4 Lot Merger – Moved to Section 7.3.10 – September 18, 2012)~~

25. Modify the following definitions in Chapter 12 as follows:

Contiguous

Land that is abutting or touching at any point of which no part is separated by intervening land in other ownership, by a public road, street, or highway, by a municipal boundary, or by a navigable body of water.

Down Zoning Ordinance

A zoning ordinance that affects an area of land in one of the following ways:

- 1. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- 2. By reducing the permitted uses of land that are specified in a zoning ordinance or other land use regulation to fewer uses than were allowed under its previous usage.

Existing Requirements

Regulations, ordinances, rules, or other properly adopted requirements of a political subdivision that are in effect at the time the application for an approval is submitted to the political subdivision.

Front Yard

See Street Yard

Political Subdivision

Political Subdivision means a city, village, town or county.

Project

Project means a specific and identifiable land development that occurs on defined and adjacent parcels of land, which includes lands separated by roads, waterways and easements.

Rear Yard

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. A corner lot shall have two side yards and no rear yard. The rear yard on a double frontage lot shall be the yard that is opposite the street yard on which the principal structure faces and/or is addressed.

Street Yard

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards. The street yard on a double frontage lot shall be the yard on which the principal structure faces and/or is addressed.

Single Family Residential Use

Any structure or lot with one independent dwelling unit.

Substandard lot

Substandard lot means a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.

26. Modify Appendix 1 Designated Streets or Roads as follows in order to correct a typographical error in an urbanized road description:

Junction of STH 67 and CTH R – Woodland

Beginning at a point in the junction of STH 67 and CTH R, County Road WS thence north along STH 67 County Road WS to its junction with the C.M.St.P. & P. Railroad.



Land Resources and Parks Department Staff Report

Shoreland Protection Ordinance Amendment

Applicant / Petitioner:

Dodge County Land Resources and Parks Committee

Filing Date: February 19, 2018

Hearing Date: April 16, 2018

Amendment Request

A petition has been submitted by the Dodge County Land Resources and Parks Committee to amend certain provisions of the Shoreland Protection Ordinance, Dodge County, Wisconsin. The petition includes amendments related to the conditional use permitting process, the variance permitting process, the non-conforming structure provisions and the regulations dealing with the enforcement of shoreland related violations that have been in place for more than 10 years. The proposed changes are necessary in order to comply with the recently amended Wisconsin State Statutes under 2017 Acts 67 & 68.

Amendment Details

The proposed amendments to the Shoreland Protection ordinance include the following changes:

Conditional Use Permits (CUP)

- The CUP process will require a class 2 notice, a public hearing and review and approval by the Committee.
- The Committee will be required to grant a CUP application if an applicant meets, or agrees to meet, all of the requirements specified in the Ordinance and those conditions imposed by the Committee.
- All conditions imposed by the Committee must be related to the purpose of the Ordinance and be based on substantial evidence.
 - Substantial evidence will be defined in the Ordinance as: “Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.”
- A CUP will remain in effect as long as the conditions upon which the permit was issued are followed, however, the Committee is authorized to limit the permit’s duration.
- If a CUP is denied, the applicant will have the right to appeal the decision in circuit court.

Non-conforming Structures

Non-conforming structures are guaranteed certain protections under current law. In accord with the new legislation, language is being added to the Ordinance to clarify that County Ordinances may not prohibit or limit repair, maintenance, renovation, remodeling or rebuilding a legal existing non-conforming structure provided the repair, maintenance, renovation or rebuilding project does not extend beyond the footprint of the existing non-conforming structure.

Variances

Language is being added to the Ordinance to clarify that a property owner bears the burden of proving “unnecessary hardship” for area variances by demonstrating that strict compliance with the ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose, or that strict compliance would render conformity with the ordinance unnecessarily burdensome.

Language is also being added to the Ordinance to clarify that variance decisions expire one year after the decision is filed unless certain criteria listed in the Ordinance are met.

Freezing of Regulations upon Submittal of an Initial Application

An ordinance provision is being added to clarify that if a project requires more than one approval or approvals from one or more city, village, county or town, and the applicant identifies the full scope of the project at the time they file the first application, the regulations in place at the time of the initial filing will apply to all subsequent approvals for the project.

Violation Enforcement

Newly enacted legislation states that a county may not commence an enforcement action against a person who owns a building or structure that is in violation of a shoreland zoning standard or an ordinance enacted under s. 59.692 Wis. Statutes if the building or structure has been in place for more than 10 years. This provision is being added to the Shoreland Ordinance.

Shoreland Ordinance Provisions for Amendments:

- 1) Subsection 14.3(2) of the Shoreland Protection Ordinance states that a petition for a text amendment may be made by any property owner in the area to be affected by the amendment, by the Town Board of any Town in which the Ordinance is in effect, by any member of the County Board, or by the Committee.
- 2) Subsection 14.3(1) through (8) of the Ordinance detail procedural matters and the form of the petition. The committee shall hold a public hearing and report a recommendation to the County Board.
- 3) Subsection 14.3(10) requires the County Board of Supervisors to consider the stated purpose of the Ordinance and requires their decision to be based on consideration of the following criteria:
 - a. Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact;
 - b. Whether the proposed amendment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Ordinance;
 - c. Whether the proposed amendment will protect the health, safety, or general welfare of the general public; and
 - d. Whether the proposed amendment will result in significant adverse impacts on the natural environment, including air, water, stormwater management, wildlife and vegetation.
 - e. Whether the proposed amendment meets the minimum standards of NR 115.

Purpose Statement

The purpose of the Shoreland Protection Ordinance is to promote the public health, safety, convenience and welfare and to promote and protect the public trust in navigable waters.

STAFF ADVISORY:

This staff advisory is only advice to the Land Resources and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.

The staff has reviewed the proposed amendments for compliance with the criteria listed in Section 14.3(10) of the Ordinance; the staff's comments are listed in Exhibit A for the Committee's review.

The proposed amendments to the Dodge County Shoreland Protection Ordinance are intended to bring the Shoreland Ordinance into compliance with the recently amended State Statutes under 2017 Acts 67 & 68. It is the staff's position that the proposed changes are consistent with the County's Comprehensive Plan and the stated purposes of the Ordinance and the amendments will protect the health, safety, and general welfare of the general public. Furthermore, it is the staff's position that the proposed changes will not result in significant adverse impacts on the natural environment. Therefore, the staff recommends the committee report favorably on the proposed petition to amend the Shoreland Protection Ordinance.

EXHIBIT A

Staff Review Comments

The staff has reviewed the proposal for compliance with the criteria listed in Section 13.3(10) of the Ordinance. The staff comments are as follows:

14.3(10) Approval Criteria – Text Amendment

In acting on a text amendment, the County Board of Supervisors shall consider the stated purpose of the Ordinance and the decision shall be based on consideration of the following criteria:

14.3(10) (a) Does the proposed amendment correct an error or meet the challenge of some changing condition, trend, or fact;

- It is the staff's position that the proposed amendments are necessary in order to comply with the recent changes approved with 2017 Acts 67 and 68.

14.3(10) (b) Is the proposed amendment consistent with the Dodge County Comprehensive Plan and the stated purposes of this Ordinance?

- It is the staff's position that the proposed amendments are consistent with the Dodge County Comprehensive Plan and the stated purposes of this Ordinance.

14.3(10)(c) Will the proposed amendment protect the health, safety, or general welfare of the general public;

- It is the staff's position that the proposed amendments will protect the health, safety and general welfare of the general public.

14.3(10)(d) Will the proposed amendment result in significant adverse impacts on the natural environment, including air, water, stormwater management, wildlife and vegetation.

- It is the staff's position that the proposed amendment will not result in significant adverse impacts on the natural environment.

14.3(10)(e) Does the proposed amendment meet the minimum standards of NR 115?.

- It is the staff's position that the proposed amendment meets the minimum standards of NR 115.

PETITION TO AMEND THE DODGE COUNTY SHORELAND PROTECTION ORDINANCE

We, the Dodge County Planning, Development and Parks Committee, petition to amend the Shoreland Protection Ordinance, Dodge County Wisconsin as shown in "Exhibit A"

The petition includes amendments related to the public hearing notice requirements, the criteria for issuing a conditional use permit, the criteria for establishing conditions for a conditional use permit and the expiration date for a conditional use permit. The petition includes amendments related to the clarification of the standards for granting certain variances, the burden of proof standards for the applicant and the expiration date for variance decisions. The petition also includes amendments related to the repair, rebuilding, and maintenance of certain nonconforming structures and the clarification of the regulations dealing with the enforcement of shoreland related violations that have been in place for more than 10 years. The proposed changes are necessary in order to comply with the recently amended Wisconsin State Statutes (2017 Acts 67 & 68).

Respectfully submitted this _____ day of _____, 2018




Tom Schaefer



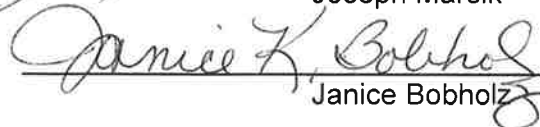
Allen Behl



William Muche



Joseph Marsik



Janice Bobholz

Planning, Development and Parks Committee

Exhibit A

Proposed changes:

Additions in text are indicated by underline; deletions by ~~single-strikethrough~~.

1. Modify Section 11.2 as follows:

11.2 (s. MAINTENANCE, REPAIR, REPLACEMENT, RESTORATION, REBUILDING, REMODELING OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES

59.692(1k)(a)2, ~~4 and (b)~~ stats. (2017 Wisconsin Act 68) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback, or that is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015, ~~may~~ be maintained, repaired, replaced, restored, rebuilt, or remodeled without a County Shoreland Land Use Permit if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties shall (2015 ACT 167) allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state for federal requirements.

Note: Section 59.692(1k)(a)2, ~~4 and (b)~~ stats. prohibits counties from requiring any approval or imposing any fee or mitigation requirements for the activities ~~activates~~ specified in Section 11.2. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes or even stormwater erosion control.

Note: NR 115.05(1)(b)1m and Section 6.1(1) lists structures that are exempt from the shoreland setback. These structures are considered conforming structures and are not considered nonconforming structures. Structures that were granted variances or illegally constructed structures are not considered nonconforming structures.

2. Modify Section 14.1(3)(c)2 as follows:

(c) Powers and Duties

The powers and duties of the Dodge County Board of Adjustment under this Ordinance shall be as follows:

1. Interpretations

The Board of Adjustment shall be responsible for interpreting the regulations and boundaries of the districts, upon referral by the Land Use Administrator.

2. Variances

The Board of Adjustment shall be responsible for hearing and authorizing variances from the terms of the ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. ~~hearing and granting variances where, owing to special conditions, a literal enforcement of this Ordinance would result in practical difficulty or unnecessary hardship.~~

3. Modify Section 14.1 (b) as follows:

b) Review and Decision Procedure

The Land Use Administrator shall review each permit application and approve, withhold, or deny within 30 days based on the Approval Criteria of Section 14.2(1)(c) ~~13.6(1)(e)~~. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

4. Modify Section 14.1(2) through 14.1(2)(f) as follows:

(2) Conditional Use Permits

In this subsection:

"Conditional use" means a use allowed under a conditional use permit, special exception or other special zoning permission issued by a county, but does not include a variance.

"Substantial Evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

The Committee shall authorize the Land Use Administrator to issue a Conditional Use Permit (CUP) for conditional uses after review and a public hearing, provided that such conditional uses are in accordance with the purpose and intent of this Ordinance and the approval criteria provided in Section 14.2(2)(c) ~~13.22(3)~~, and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the area.

(a) Procedure

Applications for CUP's shall be made to the Land Use Administrator, upon forms provided by the Department, who shall forward them upon receipt to the Committee. The applicant must demonstrate that the application and all requirements established by the Department relating to the conditional use permit request are or will be satisfied and are supported by substantial evidence. Such applications shall include the following where applicable:

1. The names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all property owners of record within 300 feet of the subject property boundary;
2. A description of the subject site by parcel identification number (PIN), lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure;
3. A scaled drawing showing dimensions of the lot and locations of all existing and proposed structures and impervious surfaces relative to the lot lines, center line of abutting highways and the ordinary highwater mark of any abutting water course; and the location of any existing or proposed on-site sewage systems and any private or public water supply systems;
4. A scaled site plan with specifications for the proposed filling, grading, lagooning or dredging project being proposed including but not limited to the area to be disturbed, the extent of the proposed project, a cross section showing the depth and width of the filling project and showing the cross section of all culverts or bridges if applicable;
5. Erosion Control plans;
6. Plans for appropriate mitigation when required;
7. The appropriate application fee;
8. A detailed narrative of the proposed project;
9. Additional information as may be required by the Committee or the Land Use Administrator.

(b) Public hearings

Public hearings on complete applications shall be scheduled within 30 days and shall receive notice in accordance with the applicable Wisconsin State Statutes and pursuant to the

general notice provisions of Section 14.5(5) 13-55. In addition, the Land Use Administrator shall notify the Department of Natural Resources at least 10 prior to any public hearing, as required under NR115(4)(h) and all property owners within 300 feet of the subject property boundary as listed by the applicant in the original application of the time, date and subject matter of the hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(c) General Approval Criteria for Conditional Use Permits

Conditional Use Permits shall be approved by the Committee if they find that all of the following criteria have been met and the applicant agrees to meet the conditions specified in the Code, and those imposed by the Committee:

1. The proposed use complies with all applicable provisions of this Ordinance;
2. Adequate assurances of continuing maintenance of safe and healthful conditions have been provided;
3. The project has been designed to prevent and control water pollution and sedimentation;
4. The project is in compliance with local floodplain zoning ordinance and the potential for damage to adjacent properties due to altered surface water drainage has been mitigated to the maximum extent possible, and to the satisfaction of the Wisconsin Department of Natural Resources;
5. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover has been considered and any significant adverse impacts will be mitigated to the maximum practical extent;
6. Public safety, transportation and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development;
7. The need of the proposed use for a shoreland location has been considered and the proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;
8. The proposed use is compatible with uses on adjacent land and the use will not be significantly detrimental to the public health, safety and welfare unless the use is a public necessity;
9. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems has been considered and any potential significant adverse impacts on the natural environment will be mitigated to the maximum practical extent;
10. The following general criteria has been considered:
 - (i) Domestic uses shall be generally preferred;
 - (ii) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - (iii) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility. Additional standards such as parking, noise, may be referred to the applicable part of their ordinance.

(d) Conditions

The Committee may attach such conditions, in addition to those required elsewhere in this Ordinance, that it deems necessary in furthering the purpose of this Ordinance. Any condition imposed by the Committee must be related to the purpose of the Ordinance and be based on substantial evidence. The requirements and conditions must be reasonable and, to the extent practicable, measurable. Violation of any of these conditions shall be deemed a violation of this Ordinance. In granting a conditional use permit, the Committee may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the Committee may

impose any reasonable permit conditions to affect the purpose of this ordinance. Such conditions may include specifications for:

1. Type of shore cover;
2. Specific sewage disposal and water supply facilities;
3. Landscaping and planting screens;
4. Hours of operation;
5. Operational control;
6. Sureties;
7. Deed restrictions,
8. Locations of piers, docks, parking and signs; or
9. Type of construction or any other requirement necessary to fulfill the purpose and intent of this Ordinance.
10. Additional Information

In evaluating each application, the Committee may request assistance from other local, county, state or federal agencies. Also, in order to secure information upon which to base its determination, the Committee may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:

(i) A plan of the area showing contours, soil types, highwater mark, groundwater conditions, bedrock, slope and vegetative covers;

(ii) Location of buildings, parking areas, traffic access, driveways, walkways, open space, landscaping, signs, and lighting;

(iii) Plans for buildings, sewage disposal facilities, water supply systems, and arrangement of operations;

(iv) Other pertinent information necessary to determine if the proposed use meets the requirements of this Ordinance.

11. The permits duration, transfer or renewal requirements;

12. Any other requirement necessary to fulfill the purpose and intent of this Ordinance.

(e) Expiration of Conditional Use Permits

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, however, the County may impose conditions such as the permit's duration, transfer or renewal, in addition to any other conditions specified in the Code.

The decision of the Committee to approve or conditionally approve a Conditional Use Permit request shall expire one year after the decision is filed with the Department after its effective date or at such alternative time specified in the approval unless at least one of the following criteria has been met:

1. Construction has been diligently pursued;
2. A Certificate of Zoning Compliance has been issued;
3. The use is established;
4. The Conditional Use Permit is renewed, for a period not to exceed one year;
5. A Conditional Use Permit also shall expire upon termination of a project or if the rights granted by the permit are discontinued for 180 consecutive days.

5. Create Section 14.2(4) through 14.2(6) as follows:

(4) USE OF EXISTING REQUIREMENTS (s. 66.10015(2)(a) Wis. Stats.) Except as provided under 14.2(5), if a person has submitted an application for an approval, the Committee shall approve, deny or conditionally approve the application solely based on existing requirements, unless the applicant and the Committee agree otherwise. An application is filed under this subsection on the date that the Department receives the application.

(5) MULTIPLE APPROVALS (s. 66.10015(2)(b) Wis. Stats.) If a project requires more than one approval or approvals from one or more political subdivisions and the applicant identifies the full scope of the project at the time of filing the application for the first approval required for the project, the existing requirements applicable in each political subdivision at the time of filing the application for the first approval required for the project shall be applicable to all subsequent approvals required for the project unless the applicant and the political subdivision agree otherwise.

(6) Development Regulations (66.10015(2)(b) Wis. Stats.) - The treatment of subsections 14.2(4) and 14.2(5) of the statutes first applies to an application for an approval that is filed on or after November 28, 2017.

6. Modify Section 14.5 (2) and 14.5(5)(e) as follows:

14.5 (2) Application Completeness

An application will be considered complete if it is submitted in the required number and form, includes all mandatory information, and is accompanied by the applicable fee. The Land Use Administrator shall make a determination of application completeness within 10 days of application filing. If an application is determined to be incomplete, the Land Use Administrator shall notify the applicant of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within ~~60~~ 30 days of receiving notice of the deficiencies, the application shall be considered withdrawn.

14.5(5)(e) Timing of Notices

Unless otherwise expressly provided in state statutes or this Ordinance, notice, when required, shall be mailed or published at least 8 days prior to the hearing or action for changes or amendments to the Ordinance, rezonings, conditional use permit or appeals to the Board of Adjustment in accordance with Class II notice requirements. For all other actions requiring notice, notice shall be mailed or published at least 7 days prior to the hearing or action in accordance with Class I notice requirements.

7. Modify Section 14.7 as follows:

14.7 VARIANCES

In this subsection, an "Area Variance" means a modification to a dimensional, physical, or locational requirements such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the Board of Adjustment under this subsection.

(s. 59.694(7), Wis. Stats. The Board of Adjustment may grant upon appeal a variance from the standards of this ordinance in according with the following provisions:

(6) Approval Criteria

The Board of Adjustment may grant upon appeal a variance from the standards of this ordinance where an applicant convincingly demonstrates that:

- 1) Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant.
 - a. Unnecessary hardship for an "Area Variance" is when strict compliance with the provisions of this Code would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the Code unnecessarily burdensome.
- 2) The hardship is due to special conditions that are unique to the property, and
- 3) The variance is not contrary to the public interest.

(7) Burden of Proof

In all circumstances, a property owner bears the burden of proving that the "unnecessary hardship" as it is used in subsections 14.7(6) is present and is based on conditions that are unique to the property, rather than considerations personal to the property owner and that the unnecessary hardship was not created by the property owner.

(8 7) Conditions

In granting a variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to affect the purpose of this ordinance.

(9) Expiration of Approval

Any decision or order issued by the Board of Adjustment requiring the Land Use Administrator to issue a permit shall expire one year after the decision is filed with the Department or at such alternative time specified in the approval process unless:

- (a) The applicant or appellant has filed a land use permit application with the Department for the applicable project within such time, provided, that the time may be extended when so specified by the Board of Adjustment.
- (b) Construction has been diligently pursued;
- (c) The land use permit is renewed, for a period not to exceed one year; or
- (d) A Certificate of Zoning Compliance has been issued;

(10) A variance granted under this subsection runs with the land.

8. Modify Section 14.8 as follows:

14.8 APPEALS

Appeals from the decision of any review and decision-making body may be made by any person aggrieved or their agent, or by an officer, department, board, or bureau of the County, or by any affected town board.

(8) Appeals of a Conditional Use Permit Decision by the Land Resources and Parks Committee (2017 Wisconsin Act 67) - If the Committee denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in s. 59.694(10) Wis. Stats.

9. Renumber Section 15.0 (1) as follows:

15.1(4) Violations

10. Create Section 15.4 (4) as follows:

(4) ENFORCEMENT OF VIOLATIONS IN PLACE FOR MORE THAN TEN YEARS (s. 59.692(1t)

Wis. Stats.)

A county may not commence an enforcement action against a person who owns a building or structure that is in violation of a shoreland zoning standard or an ordinance enacted under s. 59.692 Wis. Stats. if the building or structure has been in place for more than 10 years.

11. Add the following definitions to Section 16.0 as follows:

Existing Requirements - Regulations, ordinances, rules, or other properly adopted requirements of a political subdivision that are in effect at the time the application for an approval is submitted to the political subdivision.

Political Subdivision - Political Subdivision means a city, village, town or county.

Project - Project means a specific and identifiable land development that occurs on defined and adjacent parcels of land, which includes lands separated by roads, waterways and easements.

Substandard lot - Substandard lot means a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.

CLIENT LIAISON:

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DATE:

March 1, 2018



Groundbreaking ceremony held Tuesday, February 27, 2018

A groundbreaking ceremony was held at Theiler Park in the City of Mayville. This is the location of the northerly trailhead for Phase 1 of the Gold Star Memorial Trail which is so named to honor local fallen veterans. The first phase of this multi-use asphalt trail will extend approximately two miles from Theiler Park along County Highway TW and State Highway 28 to the Horicon Marsh Visitor Center.

TRAIL CONSTRUCTION UPDATE

The contractor (Woleske Construction Co., Inc. from Beaver Dam) has installed erosion control measures and is working on culvert and drainage structures. Company owner Joe Woleske, a veteran of the Vietnam War, is proud to be providing the construction services for this project. He has provided the following APPROXIMATE work schedule.

- March-April Layout and rough grade the majority of the trail including a number of areas with block walls.
- May Construct the trail and stone embankment along the west side of STH 28 north of Marsh Lane.
- June-July Install gravel base course and complete final grading.
- August-October Seeding, asphalt paving and restoration.
- November Complete all restoration and project punch list items.



Installing new culverts and erosion control measures near the Schwarze Road crossing.

CLIENT LIAISON:

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April 3, 2018



Installing silt fence and new drainage culverts along STH 28 for the new trail.

TRAIL CONSTRUCTION UPDATE

The month of March was pretty low key on the trail project as Woleske Construction crews worked on another project in the City of Mayville to complete a phase of the WisDOT STH 28 reconstruction project as an underground subcontractor.

Work on the trail included installing silt fence, new drainage culverts, and lengthening existing roadway culverts to accommodate the new trail.

Construction activities on the trail are expected to increase in April as weather permits because Woleske's crews are freed up from phase 1 activities on the WisDOT project until phase 2 begins sometime in May.



Lengthening existing roadway culverts along STH 28 to accommodate the new trail.